

invasive approach. We need to be mindful of the important role that confidential communications play in the deliberative process for all important decisions—including the decisions that we as lawmakers make after careful and candid discussions with our staff. Just as we would be wary of those who would seek to intrude into these communications, so too should we be reluctant to interfere with the President's deliberative process and the frank communications he has with his advisers in the White House on critically sensitive issues such as our nation's security. Of course, I have no objection that the head of the new Department of Homeland Security be Senate-confirmed, but it simply does not follow that such an approach should be extended to the President's own advisor on these issues.

As responsible lawmakers, we must recognize that we simply do not have the same license to specify the duties of the President's senior advisers in the White House as we do to specify the duties of agency officers and staff members who exercise legislative duties. We should take our cue in this area from the National Security Act of 1947, which established the National Security Council. As we all know, the President may appoint very senior advisors to the NSC—like Dr. Condoleezza Rice—who are not subject to confirmation by the Senate. That fact certainly does not detract from Dr. Rice's stature, but in fact enhances it. Anyone who deals with Dr. Rice knows that she has the backing of the President—precisely because she has his confidence and is beholden to no one else.

There certainly must be an advisor within the White House who advises the President on matters that pertain directly to our homeland security, as the President has recognized. But there is absolutely no reason why that office should be made—and micro-managed—by Congress. Why does both the head of the Department of Homeland Security and the President's Homeland Security Advisor need to be confirmed by the Senate? There is no doubt that Homeland Security is of paramount importance, but so is national security in general. And does this mean we are going to require that Dr. Rice be Senate confirmed? How about Karl Rove and Andy Card? A step in this direction is simply misguided and unwise.

I yield the floor.

Mr. THOMPSON. Mr. President, I am prepared to yield back our time if the Senator is.

Mr. LIEBERMAN. I am. I yield back our time as well.

The PRESIDING OFFICER. All time is yielded back.

Mr. LIEBERMAN. Mr. President, I move to table the Thompson amendment before the Senate. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Alabama (Mr. SHELBY) and the Senator from New Hampshire (Mr. SMITH) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 55, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—41

| | | |
|----------|-----------|-------------|
| Baucus | Durbin | Lieberman |
| Biden | Edwards | Lincoln |
| Bingaman | Feingold | Mikulski |
| Boxer | Feinstein | Murray |
| Byrd | Graham | Nelson (FL) |
| Carnahan | Hollings | Reed |
| Carper | Inouye | Reid |
| Cleland | Johnson | Rockefeller |
| Conrad | Kennedy | Sarbanes |
| Corzine | Kerry | Schumer |
| Daschle | Kohl | Stabenow |
| Dayton | Landrieu | Wellstone |
| Dodd | Leahy | Wyden |
| Dorgan | Levin | |

NAYS—55

| | | |
|-----------|------------|-------------|
| Allard | Ensign | McConnell |
| Allen | Enzi | Miller |
| Bayh | Fitzgerald | Murkowski |
| Bennett | Frist | Nelson (NE) |
| Bond | Gramm | Nickles |
| Breaux | Grassley | Roberts |
| Brownback | Gregg | Santorum |
| Bunning | Hagel | Sessions |
| Burns | Harkin | Smith (OR) |
| Campbell | Hatch | Snowe |
| Cantwell | Helms | Specter |
| Chafee | Hutchinson | Stevens |
| Clinton | Hutchison | Thomas |
| Cochran | Inhofe | Thompson |
| Collins | Jeffords | Thurmond |
| Craig | Kyl | Voinovich |
| Crapo | Lott | Warner |
| DeWine | Lugar | |
| Domenici | McCain | |

NOT VOTING—4

| | |
|--------|------------|
| Akaka | Smith (NH) |
| Shelby | Torricelli |

The motion was rejected.

Mr. LOTT. Madam President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 4533

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4533. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—48

| | | |
|----------|-----------|-------------|
| Baucus | Dodd | Leahy |
| Bayh | Dorgan | Levin |
| Biden | Durbin | Lieberman |
| Bingaman | Edwards | Lincoln |
| Boxer | Feingold | Mikulski |
| Breaux | Feinstein | Murray |
| Campbell | Graham | Nelson (FL) |
| Cantwell | Harkin | Nelson (NE) |
| Carnahan | Hollings | Reed |
| Carper | Inouye | Reid |
| Cleland | Jeffords | Rockefeller |
| Clinton | Johnson | Sarbanes |
| Conrad | Kennedy | Schumer |
| Corzine | Kerry | Stabenow |
| Daschle | Kohl | Wellstone |
| Dayton | Landrieu | Wyden |

NAYS—49

| | | |
|-----------|------------|------------|
| Allard | Fitzgerald | Murkowski |
| Allen | Frist | Nickles |
| Bennett | Gramm | Roberts |
| Bond | Grassley | Santorum |
| Brownback | Gregg | Sessions |
| Bunning | Hagel | Shelby |
| Burns | Hatch | Smith (OR) |
| Byrd | Helms | Snowe |
| Chafee | Hutchinson | Specter |
| Cochran | Hutchison | Stevens |
| Collins | Inhofe | Thomas |
| Craig | Kyl | Thompson |
| Crapo | Lott | Thurmond |
| DeWine | Lugar | Voinovich |
| Domenici | McCain | Warner |
| Ensign | McConnell | |
| Enzi | Miller | |

NOT VOTING—3

| | | |
|-------|------------|------------|
| Akaka | Smith (NH) | Torricelli |
|-------|------------|------------|

The amendment (No. 4533) was rejected.

Mr. THOMPSON. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

ORDER OF PROCEDURE

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the Senate go into morning business for up to 10 minutes, allocated to the Senator from Vermont for the purpose of introducing legislation, and that when the Senator is done, I be recognized for the purpose of offering an amendment to the pending matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

(The remarks of Mr. JEFFORDS and Mrs. CLINTON pertaining to the introduction of S. 2928 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senator from North Carolina be recognized to speak for up to 10 minutes in morning business, and that immediately after his remarks, the Senator from Connecticut be recognized for the purpose of offering an amendment.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

The Senator from North Carolina.

(The remarks of Mr. EDWARDS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

AMENDMENT NO. 4534 TO AMENDMENT NO. 4513

(Purpose: To provide for a National Office for Combating Terrorism, a national strategy, and for other purposes)

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 4534 to amendment No. 4513.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. LIEBERMAN. I yield now to the Senator from Florida, my cosponsor on this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, earlier today and, to a greater extent, at the end of last week, we had a debate on the issue of the establishment within the White House of an office to combat terrorism.

The rationale for that office is several-fold. One, not all of the agencies that will have responsibility for protecting the homeland against terrorism are in the Department of Homeland Security. There are a number of important functions—all of the intelligence agencies, the Department of Defense, the Department of Justice, to mention three, which clearly have a significant role in protecting the homeland—which are not within the Department of Homeland Security. So that creates the need for someone who is in a position of responsibility to coordinate their activities in order to achieve a cohesive, comprehensive plan to protect the people of the United States.

That also raises a second necessity, which is that there be a consistent strategic plan of action around which all of these agencies will organize their antiterrorism activities. That is title III of the legislation that has been introduced by our colleague from Connecticut—the requirement that there be such a comprehensive strategic vision of how we are going to protect this very open and free society of America against terrorist attacks.

A third reason why I think this office is important is because we know the resistance that is going to occur to the changes that we are now suggesting. We are asking agencies which, in some cases, are a hundred years or more old to change those old habits, to reprioritize, to put at the top of their list defending the homeland against terrorists. There will be, both within the agencies and among the agencies, some conflicts, inevitably. We need

someone who has the voice, who has the ear, who has the appointment of the President of the United States to be able to moderate and resolve those conflicts, and to do so in a clear and expeditious manner so we do not exacerbate unnecessarily the vulnerability of the American people while agencies are engaged in bureaucratic catfights.

A final reason why I think this is important is that we need someone to perform a function that, frankly, has not been adequately performed in the last decade, vis-a-vis our intelligence agency. That function is to constantly challenge the agencies that have homeland security responsibility as to their relevance.

There is a tendency for an agency that has been doing its business in a particular manner for a long time to be resistant to taking on new habits—maybe it is the governmental equivalent that it is hard to teach old dogs new tricks, that it is hard to teach old bureaucracies new patterns of activity. I use the intelligence community as an example of that truth. They grew up, beginning with the establishment in 1947, as agencies which had as their role of being to develop and analyze information relative to the Soviet Union and its Warsaw Pact allies.

It has been largely since the end of the cold war that the intelligence community has broadened its focus on the rest of the world, where the United States has important interests that it wishes to know more about and to have a greater analytical capability to decide what we ought to do about it. The intelligence community, in my judgment, was slow to make that transition. Part of the reason is that they were not produced adequately. They were not asked with sufficient frequency and aggressiveness: Are you relevant to the kinds of challenges that you face today?

I believe that is part of the responsibility of Congress, part of our oversight. It also will be a responsibility of this new office within the office of the President to be asking these agencies that have homeland security responsibilities: Are you relevant to the kinds of challenges that we have facing our Nation today? So those are the essential rationales.

Now, the concern that was expressed last week was not that we were going to have such an office. In fact, at one point, the Senator from Tennessee and I, I thought, had a common agreement that there was the need for an entity in the White House that could perform those functions. The question, then, became calibrating just how much influence and power should that Department have.

I personally was, and continue to be, an advocate for a strong, very robust office of counterterrorism in the White House because I think the challenges of inertia and resistance to change are going to be significant, and there will have to be an effective, even more assertive force in the other direction to

get the kinds of changes the American people expect our Federal Government to make in order to give the priority that we expect to protect the homeland against terrorists.

But it is clear from the vote that we have just taken that the majority of the Members of the Senate feel that goes a little too far. So what Senator LIEBERMAN and I have been doing over the past several days is trying to think through what could be essentially jettisoned from this legislation as it relates to the office within the White House that would still maintain the essential credibility of the office to perform its function but would make it acceptable to a majority of our colleagues.

The two issues that we have identified for such discharge are, first, the provision that the Presidential appointee to the office of antiterrorism be subject to Senate confirmation, and, second, the provision that gave this office the capacity to decertify budgets of the agencies which had some homeland security responsibility if it were determined that they were not allocating sufficient funds to that function within the agency, which was that agency's part of the comprehensive plan to fight terrorism in the homeland.

I offered this amendment with my colleague, Senator LIEBERMAN, with some anguish because I think those two levels of accountability and capability are important to assure us that we can achieve what we must achieve in defending the homeland. But in order to be able to save the larger concept of such an office in the White House, which now will be almost a parallel to the office that is held by Dr. Condoleezza Rice, as the National Security Adviser—that office is a statutory office, appointed by the President, created by Congress, but not subject to confirmation. That will be this office. It will be an office created by statute by the Congress, so it will have the legitimacy of law. The head of the office will be appointed by the President and not subject to Senate confirmation. That is the model we will have if this amendment is adopted.

What happens if we do not adopt this amendment and then proceed to adopt the Thompson amendment which will delete both title II and title III? There will be no congressional directive that it is important to have an agency to coordinate the multiple Departments of the Federal Government with homeland security responsibility. In fact, it could be interpreted as a congressional statement that we affirmatively do not want there to be a place in the Federal Government that can bring these Departments together; that, for some reason, the experience we learned since 1947 as to the importance of a National Security Adviser who can perform that function for national security is not relevant to the kind of challenges we are now going to face in terms of domestic security.

Second, with the elimination of title III, we will have no congressional directive to establish a strategic plan for homeland security and to have the strength of Congress in support of that plan. I think it is worth giving up the confirmation and the budget certification if we can retain the fundamental principles of the importance of an agency that can achieve collaboration, can organize behind a strategic plan, will have the strength that comes from congressional creation and Presidential appointment, and will be able to move us as rapidly as possible into the best posture to defend our homeland and be a constant product to see that these agencies are cognizant of the changes that will inevitably be occurring in the environmental threat in which they will be operating and that they are prepared to constantly be reinventing themselves, adapting themselves to effectively respond to the challenges that will be different 10 years from now than they are today, and much different 30 years from now than they are today.

I urge the adoption of this amendment which I consider a compromise offered in good faith that meets the primary concerns that were expressed in this Chamber last week and again today but allows us to move forward with a totality of national policies, including Department of Homeland Security, the responsibilities that will continue to be vested in other agencies outside of the Department of Homeland Security, and an entity within the White House with the ear and the confidence of the President capable of seeing that the whole of these work together in a cohesive team for the defense and protection of the people of America.

I urge the adoption of this amendment and then the defeat of the underlying amendment.

THE PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2928 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, I thank the distinguished leaders for allowing me this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Florida, Mr. GRAHAM, for not only his eloquent statement and his spirit of accommodation that leads him to offer this second-degree amendment, but also for the work he has put into this idea.

It is an excellent idea—I have said this before and I will say it again briefly—the pending amendment, which is to say the underlying amendment that came out of the Senate Governmental Affairs Committee, is our best effort to respond to the terrible events of September 11 and to protect the American people from anything like that ever happening again. That is done, first, with the creation of a Department of Homeland Security, and second, with, in the White House, this National Office for Combating Terrorism—one focused on homeland defenses and the other serving as an adviser to the President, coordinating all our antiterrorism activity which goes well beyond homeland security to defense, law enforcement, foreign policy, foreign aid, economic policy, et cetera.

Senator GRAHAM has worked hard on this issue, and I think presented a very good proposal. It was, as the last vote indicates, not the will of the Senate to accept it in its current form. Many of our colleagues indicated to Senator GRAHAM and me that they might be able to support this office if there were no Senate confirmation. Senator GRAHAM has agreed by this amendment to remove that requirement.

What would be left then would be quite similar to what the National Security Adviser has been doing for some period of time since that statute was created, a statute which coordinates advice to the President in a particular subject area. In this case, that subject area is terrorism, which according to most experts outside and inside the Congress, will likely be the dominant threat to our security in the next period of our history.

So the best proposal, which we had hoped would be accepted, would be to provide for Senate confirmation. The Senate has expressed its will there, and I think Senator GRAHAM has now offered the next best idea. I am privileged to be a cosponsor of this amendment with him, and I do so with some sincerity, particularly because of the other section of this legislation which does create a Secretary of Homeland Security who, of course, is subject to Senate confirmation and is accountable to the Senate.

So the concerns I had, the Senator had, and so many others had about the previous Office of Homeland Security being occupied by an individual not subject to Senate confirmation, and therefore not accountable to the Congress, has now been overcome with the creation of the Department of Homeland Security; that no matter what its shape, which I think we all agree will be created by the end of this session, now allows us to take a step forward, not as large as the committee proposal would have taken but nonetheless a significant step forward in creating the office and thereby giving this President and future Presidents one individual within the White House whose direct function is to coordinate the entire antiterrorism effort of the United States of America.

I support the amendment before the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I am sorry I have not been in a position to be following the debate. Without losing my right to the floor, Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending question is on the Lieberman second-degree amendment to the Thompson first-degree amendment.

Mr. BYRD. When was this second-degree amendment introduced?

The PRESIDING OFFICER. Within the last 15 minutes.

Mr. BYRD. I have not had an opportunity to study this amendment. I did hear, though, the distinguished manager of the bill say something to the effect that this amendment would eliminate the requirement for Senate confirmation of the—is it the Director of Homeland Security?

I ask that I retain the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Responding to the Senator from West Virginia, this amendment, which is suggested by Senator GRAHAM, who was the originator and implementer of the idea of a separate White House office on antiterrorism, would leave the Secretary of Homeland Security unchanged.

The Secretary would be nominated by the President and confirmed by and accountable to the Senate, and the new office on antiterrorism that would be created in the White House in our original proposal was subject to Senate confirmation, as well. We heard from many colleagues, particularly on our side of the aisle, who thought that since we were creating a Department of Homeland Security with a confirmable Secretary, it was a mistake to require confirmation of an office in the White House. Senator GRAHAM has responded to that and, as a result, offered this second-degree amendment to create the Director, who would be appointed by the President, without confirmation by the Senate.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill. I strongly disagree with those who believe the Director within the White House need not be confirmed. I am very opposed to that idea. I am ready to speak at some length on this. Do I have the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Very well. While I am speaking, I hope my staff will bring some of the materials I have prepared to use. I am not going to go along with an immediate vote on this, I can tell Senators that. I am sorry I had to get to the floor ahead of Mr. THOMPSON—I saw him standing—but I was concerned. I will yield to the Senator if he has an amendment to beat this amendment, but I am not yielding the floor now.

Mr. THOMPSON. And I would not try to take it, even if I thought I could.

I respond to my friend from West Virginia by saying, I was simply going to address the issue very briefly and ask for the yeas and nays, frankly, on the second-degree amendment.

I might add, I think the Senator is correct in the way he described it, but we had three basic concerns. One had to do with the Senate confirmation. The other one had to do with the fact that it put this person in a position of being a strategy maker, a statutory strategy maker, when we already have a national strategy.

I have no objection to reporting to Congress periodically, but being in on the front end of that, I think that horse has already left the barn.

Mr. BYRD. When?

Mr. THOMPSON. In July.

Mr. BYRD. How?

Mr. THOMPSON. When the President presented the national strategy.

Thirdly, the new Director is still a pretty big player as far as budget authority is concerned.

Mr. BYRD. Yes.

Mr. THOMPSON. Those were three things we had concern about, and now it is down to two. I was going to make those points, move to table, and ask for the yeas and nays. That was my intention.

Mr. BYRD. I thank the Senator.

Mr. President, I have been saying to my Senate colleagues that we had better take some time and look at what we are doing. What was about to happen, in my judgment, would have borne out my concerns and my warnings. An amendment has been offered by the distinguished manager of the bill. He certainly has far more expertise with respect to this bill than I have. He has spent days, nights, and weeks, I would say, on it. So in taking the floor at this time, as far as I am concerned, it is a labor of love. I am not on the committee, but this is a good example. Senators—at least one Senator—did not know what we were doing. An amendment was called up, I understand, 15 minutes ago. I do not think I have inaccurately stated what Senator THOMPSON had indicated with reference to when this amendment was called up. We will say within the last half hour. I suppose that is accurate.

The amendment comes from my side of the aisle. Normally, I might not pay quite that much attention to it, but I have spent a lot of time on the House bill and on the Lieberman substitute, and I have been very concerned that Senators really are not paying attention. That is my observation. I may be very wrong in that. I am sure the Senators on both sides of the aisle who are members of the Lieberman committee know what is going on.

But I don't know about the rest of us.

Here we have an amendment before the Senate, as I understand it, that would eliminate the requisite confirmation by the Senate of the Homeland Security Director, the individual

who is in the White House, occupying a place which is now occupied by Mr. Ridge. It would seem to me we ought to require confirmation of that person.

I heard Mr. LIEBERMAN say that it is somewhat similar to the National Security Director, Condoleezza Rice. She does not require confirmation. We have a State Department, Secretary of State and the Secretary of Defense we can call up at any time and find out what we want to know with respect to defense and international security matters. I made that same argument with respect to Condoleezza Rice back in the days when Senator STEVENS and I were trying hard to get the President to send Mr. Ridge before the Senate Appropriations Committee to answer questions with respect to the appropriations budget. There were those who said Dr. Rice does not have to come before the Congress and answer questions, and I said we can get the Secretary of Defense or Secretary of State. That is quite true.

However, Mr. President, the Homeland Security Department is going to be in a far different position than Dr. Rice is in. The Director of Homeland Security will be the person who knows all the answers with respect to homeland security. That person's powers will be far broader in many ways than Dr. Rice and her powers.

The first Secretary of State was appointed in the very early days of the Republic. The same was true with the Secretary of War and the Secretary of the Treasury. We have something before the Senate that is new, a situation that has never prevailed in this country, where it is attacked from within by terrorists and where the President has used an Executive order to create a homeland security agency. I don't think much of this Executive order, as a matter of fact. I am afraid we are seeing too many of them, too often. The position that Governor Ridge has now held was created by an Executive order. This is not just a little clerk down there in the bowels of the White House working. This is not just an ordinary adviser. This is a new type of war. This is a new type of agency, a new kind of department.

Yes, we need it. I have been in favor of creating a Department of Homeland Security. But having read the administration's proposal with respect to the creation of the Department, and having read the House bill, H.R. 5005, in regard to the creation of the Department, I have been more and more constrained to believe that we have a new "animal" in this Department of Homeland Security. It is not like the Department of Energy. It is not like the Department of Interior or the Department of Transportation. It is not like most of the Departments that have been with this Government for a long time, several of which have been created while I have been a Member of Congress.

This is an entirely different breed of Department. This is a Department that is going to encompass many issues that

are of interest to several of the Departments, the Secretaries of which were not even aware of when the President announced his intention to create a homeland security agency, and an agency answerable to him. Many of the Secretaries who are in the Departments that were to be ultimately involved were not aware of this until the day the President announced it, I am told, or at least I read that in the newspaper. So this is a new animal.

If all Senators would read the House bill, they would get a reflection of the administration's wishes with respect to the Department of Homeland Security—not entirely. I believe the House bill is in some respects better than the administration's proposal, but the bill by Mr. LIEBERMAN's committee, as reported out of his committee, is better than the House bill.

However, we have had too much of this lately: An administration that wants a program run out of the White House. And now the administration does not want this position confirmed. Let me restate that. The administration does not want the Director to be confirmable by the Senate. That alone makes me very suspicious. We have an administration that operates a great deal in secret, wants to operate even further in secret, wants to be more secretive.

It was very secretive about the so-called shadow government. I didn't know anything about shadow government until I read about it in the newspaper. The administration tried to claim that I had been told what that was. The administration was wrong 100 percent. I had never been told. Of course, after this appeared in the newspapers, the administration was willing to try to come up and explain what this is about. And we have seen this whole Executive order with respect to a Department of Homeland Security, the way in which that suddenly emerged from the dark mists of secrecy, we have seen the same path.

We have an administration that looks upon the Congress of the United States as a subordinate body. I am sure some of the administration officials look upon Congress with utter contempt. They don't want Congress in this position. The Senate, of course, is one-half of the Congress, being one of two branches. I don't want that. And I am not going to knuckle under to what they want. This Senator is not—now, tomorrow, or the day after tomorrow in this respect.

I may be overridden. The Senate, I said myself, is more than the 100 hearts, and the Senate will eventually work its will on this, I suppose. But it is not going to do so in the next 15 minutes. This is a position that ought to be confirmed. It doesn't make any difference what President Bush wants or what he doesn't want. The Congress is an equal branch.

This Congress is unlike, perhaps, the State Legislature of West Virginia. The State Legislature of West Virginia may

feel it has to go along with its Governor. I have been in the State Legislature of West Virginia. I know a little about how legislatures work and how Governors operate at the State level. They generally are very concerned about the State constitution, what it allows with respect to the budgets and so on, the State budgets. I have seen some other Governors come to Washington as President and they think that, well, they did it this way in the government of Georgia or they did it this way in the State of California or they do it this way in the State of Texas. Well, things here are not done as they are done at the State level in West Virginia.

Why should we bend to the administration's opposition to this point? Why shouldn't this individual be confirmed? It is not enough to say: Well, the National Security Adviser doesn't require confirmation.

It is not enough to say that. That does not win the jury, I would hope, in regard to a Homeland Security Director. Just because Dr. Rice isn't required to be confirmed is no good reason why the Director of Homeland Security—be it Mr. Ridge, eventually, or John Doe—there is no good argument as to why that person should not be confirmed.

Are we going to sheath our sword and leave the field on that flimsy argument: Well, Dr. Rice is not confirmed so I see no harm in not having the Director of Homeland Security confirmed.

It is an entirely different argument. It is as different as day and night. That is no argument. Why should I say I take my seat now and let this vote occur in the next 15 minutes—or the next 30? That is no argument. Who is here to hear the argument? There may be a good many Senators in their offices listening to it. That is how I kind of caught on to it.

I am prepared to speak for several hours, if I can get the materials I want that I have gone over during the recess. I don't know how other Senators spent their time. I am sure they were very busy during the recess, but I spent most of the time during the recess studying the House bill and the Lieberman substitute. I had objected, as Senators will recall, to going to the bill before the recess. I had objected to taking up any substitute before the recess. I felt that it was a matter worthy of considerable time and debate.

I was here when we created the Department of Energy. I was here when we created the Department—today they call it Health and Welfare or something like that. Abe Ribicoff was the Secretary of that Department. He later came here as a U.S. Senator. I was here when the Department of Veterans Affairs was created. Thank God I am here now when we are discussing the creation of this Department. This is a far different kettle of fish.

Why should this Senate kowtow to any President, whether it be Democrat

or Republican? If former President Clinton were in the White House today, I would take the very same position. It is not because we have a Republican in the White House. It is because we have an administration that is intent on being secretive, has only a sneer, as it were—at least some of the people down there—for the Congress of the United States. It looks upon the Congress with contempt.

Some of the people in the administration don't want to live by the "rules" that have governed for many years. I use the word "rules" because I am remembering, in one case, one of the Cabinet officers using that word. We are tied down by rules.

The administration people read "Gulliver's Travels." It must have been required reading because they continue to talk about the Lilliputians. That is the attitude toward the Congress of the United States.

I do not want to give any administration too much power. I want any President to have whatever power he needs to deal with the protection of this country, homeland security. But I do not want to give any President power that he does not need but wants, and so I am a little bit aghast at the willingness of some of our people on my own side to just bow down and scrape and say: Well, no, that's not too important. We don't confirm Dr. Rice. We didn't confirm her predecessor. We don't confirm the security advisers. Therefore I see no reason why we need to confirm the Director of Homeland Security.

I do. There is a great deal of difference. And, also, I haven't had an opportunity to read this amendment. I had an opportunity to talk with Senator LIEBERMAN, perhaps for 2 minutes here, and with Mr. THOMPSON for less than that. I haven't read this amendment, but I have heard enough about it to oppose it—to oppose Mr. LIEBERMAN's amendment.

Of course I will be against Mr. THOMPSON's amendment, also. I am against his amendment, too. But the first vote would come on or in relation to the Lieberman amendment—I believe that is right. The first vote would come on or in relation to the Lieberman amendment as against the Thompson amendment. I assume Mr. THOMPSON is going to move to table the Lieberman amendment.

Mr. LIEBERMAN. The Senator from West Virginia is correct. It is a Lieberman-Graham amendment, and I think it is Senator THOMPSON's intention to move to table it.

Mr. BYRD. And the distinguished Senator from Connecticut, Mr. LIEBERMAN, for whom I have tons and tons and tons of respect, is opposed and he has offered an amendment now, as I understand it, that would run up the white flag. I will use my own words. I am sure the offeror of the amendment wouldn't use those terms, but in my words, would run up the white flag insofar as confirmation, required confirmation of the Homeland Security Director by the Senate is concerned.

I would like to have the Senator's response. He is entitled to respond. I ask unanimous consent that I may retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, responding to the Senator from West Virginia, I need to say that I wouldn't describe it as running up a white flag. Senator GRAHAM, who has constructed this section of the bill which I have supported, felt in the exercise of practicality but also because he feels so strongly about the importance of at least putting in law a requirement—again, exercising the power of Congress. There are some in the Chamber who believe Congress should never tell the President what to do about anything, and if the President wants to create an adviser on counterterrorism he should have the right to do that or not do that.

Mr. BYRD. Yes. There are monarchists—not anarchists—in the Congress, I will admit.

Mr. LIEBERMAN. That is a word I would embrace. That is quite right. Our Framers did not create a monarchy. They created a Republic with a President with substantial powers—accountable to the Congress with substantial powers—and to the people we are all ultimately accountable. The Senator from West Virginia is not just a Senator but "the Senator." He has had so much experience over some years here. He knows, as we have all experienced these days, that sometimes we come to a moment where we can't quite achieve—Senator GRAHAM is at an Intelligence Committee meeting, so I am taking the liberty of speaking for him—the ideal that we aspire to because the votes have been counted and we don't have the votes. That was the clear message from the vote.

It was important, nonetheless, to take a significant step forward and create the office, with a law to guarantee that there would be somebody in the White House whose sole responsibility is to coordinate our government-wide antiterrorism program. I must say that I am quite personal about this issue.

I said to the Senator from Florida when we talked about introducing the second-degree amendment that we may not have the votes for this, either. I understand the Senator from West Virginia has a different point of view on what has been done. But Senator GRAHAM feels so strongly about the importance of at least creating the office, even if we can't achieve the ideal of Senate confirmation, that he wanted to offer this amendment notwithstanding the possibility that the White House is not negotiating very much at this point. They are just wanting it their way or no way. But he wanted to give this option to the various Members of the Senate, particularly on this side of the aisle, who say, Senator GRAHAM, Senator LIEBERMAN, I like your idea but I don't like the idea of Senate confirmation.

That is the purpose of this amendment. I know how strongly the Senator from West Virginia feels about the prerogative of the Senate. I agree with him in this case. It is just that we haven't been able to achieve what we wanted here, although we hoped we might achieve a good part of it.

I thank the Senator for giving me the opportunity to respond. It is not my nature to settle for less than the ideal, but, as the Senator knows, sometimes in our democratic system we have to do it to achieve some progress.

I thank the Senator.

Mr. BYRD. Mr. President, I thank my dear friend, the distinguished junior Senator from Connecticut, and the standard bearer for the Democratic Party in the last election, and a man whom I greatly respect for other reasons. He and I have many kindred feelings when it comes to the discussion of religion. I admire him for many, many things in that regard. If we wanted to get into the discussion of the cosmological principles that guide the operation of this universe, and if we wanted to talk about Charles Darwin, that great English naturalist and his theory of survival of the fittest, the Senator and I have a lot of kindred thoughts.

I understand Senator GRAHAM. He is a former Governor. There is nothing wrong with being a former Governor. But Governors have a way of looking at things a little differently than those lowly peons like myself who served in the House of Delegates and the State Senate of West Virginia. I can understand how a Governor sees things—even at the Federal level—because sometimes they see things through the lens of their experiences as Governor dealing with State matters and State constitutions. I can understand that. I wish I had been a Governor of the State of West Virginia at some point. I would like to have that additional experience.

But I cannot yield without more than just a clash of sword against a shield, even to Senator GRAHAM. I have great respect for him, but he is wrong in this instance. When he gets to the floor, I will tell him I said that. I say that out of respect to him. We can all disagree. I sometimes try to remember that I can be wrong, and often am. But this is wrong.

I would be happy to debate this with Senator GRAHAM until the cows come home, if he wishes. He feels strongly, as Senator LIEBERMAN says. I take that exactly the way Senator LIEBERMAN says it. Senator GRAHAM feels strongly. Well, so do I.

I am going to see that there is some debate on this matter before we vote on it. I am not as young as I once was. I once spoke 14 hours—or something like 14 hours—on this floor. I once sat in that chair for 22 hours. I sat in the chair 22 hours, and I would still have been setting in it had Richard Nixon, the Vice President, not come to the Senate Chamber. He naturally had the right to the gavel. I had been a Senator

a while, but I had not been a Senator a long time. But I knew who the President of the Senate was.

Incidentally, the President of the Senate can't address the Senate without unanimous consent of the Senate.

I noticed the Vice President the other day in New York. I saw what was going on on television. I saw that he spoke at that meeting in New York when the two Houses convened up there. Of course, when they first convened in New York, John Adams was Vice President, and he talked at length. He was quite a gregarious person in that respect, somewhat unlike the current Vice President. He is not gregarious, and neither am I, for that matter. But the Vice President doesn't speak these days—I have an audience of one here, but even one individual is of great importance. So I want my friend from Connecticut to hear what I had to say here, not that it will be read even as a footnote.

But at this time, the Vice President cannot address the Senate except by unanimous consent of the Senate. At the time of the beginning of the Republic, the Vice President was John Adams. And he was one who would speak at the drop of a hat. He spoke quite at length.

That is a little bit besides the point here, but I just have to say that I cannot—I suppose the Senator will win over my objection because not many people here seem to be paying much attention to what is being said at the moment. I think they take for granted it is a bill like other bills that come here that have come through the committee, and: "I am going to vote with my party," or "I am going to vote against the party," or whatever.

But I have been trying to get their attention. And if it had not been for my objections, this bill would have probably been passed already. But some attention, at least, is being paid to it now. And I hope that more attention will be paid to it.

On the business of having the Director of Homeland Security confirmed, Senator STEVENS and I had our experience—and it was not a very happy experience—with this administration when it came to the hearings that both Senator STEVENS and I thought we ought to have on appropriations. That was the supplemental appropriations bill, I believe. That was in the very early part of this year. And at that point the memories of September 11 of last year were almost as vivid—in January and February of this year—as they were the day after the event.

But Senator STEVENS and I joined in asking Governor Ridge to come up before our Appropriations Committee and testify on the budget for homeland security. Oh, he didn't want to come up. He was just a staff person at the White House. I believe I saw the President, Mr. Bush, on television, on one occasion, saying: He doesn't have to go up there. He doesn't have to go. He's a staff person.

And so I said, at the time, probably in a low voice: Well, technically speaking, the President has a point. The person, Mr. Ridge, is on the President's staff.

So far so good. But Mr. Ridge is far different from the ordinary staff person. And he is far different from the ordinary adviser to the President. The President has lots of advisers. He has the Secretaries of all the Cabinets. They are his advisers. And a confirmed Director of the Office of Homeland Security can still be an adviser to the President. He still would be, and he certainly would carry more weight than he carries as an adviser incognito. Those are my words.

But keep in mind that this so-called staff person, this person on the President's staff, is running all over the country speaking to chambers of commerce, going down to Mexico and meeting with the authorities there, going up to Canada, meeting with the authorities there. Ordinary staff people do not do that. This is more than just an ordinary staff person. This is more than just an ordinary adviser to the President.

And he was quite willing to come up and "brief" Members of Congress. Well, that doesn't fill the bill as far as I am concerned. I am chairman of the Appropriations Committee. I don't know how long I will be chairman, but as long as I am chairman of the Appropriations Committee, that doesn't fill the bill.

We have briefings, if we want them. But when we want to spread the Record for the American people to see, and for the American people to hear what is said by witnesses and by Senators who are asking questions, it should be done in formal hearings—hearings, not briefings behind closed doors.

I think there was some offer, even, to have a briefing with the doors open, but that still does not—still does not—meet the bill. Here is a committee of the Congress, the Appropriations Committee, created in 1867, doing its work, doing its duty, as we have always done it. When we have had Republican chairmen of the committee and when we have had Democratic chairmen of the committee, the committee has always had hearings. And they have been public hearings.

If we want closed hearings, we can vote to have a closed hearing. And then we might vote to have the Record cleaned up a little bit and made public. But ordinarily when we are hearing testimony on the budget, the Federal budget—the people's money, and the way the taxpayers' money is to be spent—the taxpayers are entitled to hear that. They are entitled to hear what the administration person says.

What was it that had to be secret? There was nothing. There was nothing about the testimony that he would give on these budget matters, on the appropriations for the next year—nothing—that it needed to be secret.

If we had had briefings, they would not have been kept secret. Ten minutes

later, those who would be in the briefings would go out and tell what was said because it was not classified. That was a sham. That was a charade on the part of the administration to try to make it appear that the administration was trying to be reasonable. Yes, they would let Mr. Ridge come up and brief Members. Why, my foot. Have him come up and brief Members of the Congress? Why, that is laughable.

When I first came to this Congress, John Taber of New York was chairman of the House Appropriations Committee. Would John Taber have agreed to have an administration person in the position that Tom Ridge is in—I am talking about John Taber, the Republican chairman of the House Appropriations Committee—would John Taber have agreed to have the administration witness come up and just give the Appropriations Committee a briefing? Heavens, no.

And so I feel the same way about it. Why should the Appropriations Committee of the Senate, after 135 years—after 135 years—through all administrations, Republican and Democrat—settle for having a briefing, letting the administration's point man on homeland security just come up and give a briefing? Why, the American people are entitled to more than that. The American people are entitled to more than that. That is trivializing the appropriations process. No, I would not agree to that.

That is what we are about to do here. We are about to say, yes, we will have a Secretary of the Department. I am for a Department of Homeland Security. And in my amendment, I certainly subscribe to Senator LIEBERMAN's committee proposal in having a Department, having a Secretary of the Department. I go along with that. Yes, let's have a Secretary. But in my amendment, I am still proceeding under the understanding that the Director of Homeland Security within the White House will also be confirmed.

In an appropriations bill which Senator STEVENS and I brought to the floor several months ago, we had language requiring the confirmation of the Director of Homeland Security. It was in the appropriations bill. We tried and we tried—Senator STEVENS and I tried more than once—to have the Director of Homeland Security come before the Appropriations Committee in the Senate and testify.

I assured those from the administration who talked with me about that, we were not interested in knowing anything about Mr. Ridge's secret conversations or private conversations with the President; we were not interested in any of that stuff. We are not interested in that Dick Tracy stuff. We only want to know the facts concerning the appropriations. We are not going to ask him questions like that. It is not going to be classified.

If Mr. Ridge wants the committee to hear him in secret, we will vote on that

in the committee. And if the committee wants to close the door for an hour to hear what he has to say that is so secretive and so demands secrecy, we will vote on that. But we are not interested in embarrassing Mr. Ridge. We are not interested in embarrassing Mr. Bush. We only want the facts concerning the moneys that are going to be needed for homeland security.

No, they wouldn't let him come up. The administration had its feet in concrete and was determined not to let Mr. Ridge come up and testify before the Senate Appropriations Committee.

The President said he was going to change the tone in Washington. Well, as far as I was concerned, that was not changing the tone in the right direction. That was a sour note, and I am sorry the administration ever took that position. But here we are today and the administration still doesn't want it. Why?

Why did they have their feet in concrete a few months ago with respect to Governor Ridge? We could have gotten off on a much better footing if Mr. Bush had said: Go on up there and answer their questions. If they are asking questions on dollars and cents, the taxpayers' money, the appropriations needs, go on up there and answer those questions.

It would have struck a much sweeter note. But it kind of, in a way, poisoned the well. So that wasn't changing the tone for the better. That made it worse. And to this day, the administration doesn't want that position to be one that requires confirmation by the Senate.

Here we are, the loyal opposition when it comes to this bill, I guess, saying: We think that position ought to be confirmed. If we are going to create it, it is going to be confirmed. That is the way the Senate ought to look at this.

If there were a Democrat in the White House, I would say the same thing. It should be the Senate's will.

Now, the President can veto the bill. He can do that if he wants. He can do that. I believe it is the seventh section of article I of the Constitution which lays out the veto power of the President—the seventh section, article I.

Mr. REID. Mr. President, I am wondering if I could ask a question without the Senator losing his right to the floor.

Mr. BYRD. Absolutely.

Mr. REID. Would the Senator consent to my suggesting the absence of a quorum, with the order being that as soon as the quorum is called off, which would be very quickly—I want to visit with the Senator and the managers of the bill—the Senator from Virginia would retain the floor?

Mr. BYRD. I don't know about the Senator from Virginia.

Mr. REID. I am sorry, West Virginia.

Mr. BYRD. Yes, that is perfectly OK.

Mr. REID. I ask unanimous consent that when the quorum call I will shortly suggest is called off, the Senator from West Virginia have the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, time being of the essence and realizing Senators want to get out of here and go home and how badly they want to get rid of the pending amendment, I will try to move on a little faster. My thanks to the pages for bringing me a lectern.

Mr. President, I have heard the concerns of some of my colleagues about establishing a statutory office within the Executive Office of the President with a Director confirmed by the Senate. I have heard the arguments that Congress would be intruding upon the President's right to receive confidential advice and it would tie his hands with regard to the internal management of the White House.

These arguments misrepresent the realities of coordinating the executive branch and the management challenges it will involve, even after this new Department is up and running.

The point has been made many times during the crafting of this legislation that the functions involved in homeland security are scattered throughout the Federal Government. That is an important point. Let me state it again: The point has been made many times during the crafting of this bill that the functions involved in homeland security are scattered throughout the Federal Government. That is not like the State Department. It is certainly not like the Defense Department.

We are talking about a Department with functions scattered throughout the Federal Government, the functions involved in homeland security. That does not stop just at the water's edge. It goes on to the other side of the river. Many of those functions will not be transferred into the Department by this legislation.

The legislation before the Senate today and which the Senate will vote on—I suppose, eventually, if this legislation is passed—creates a Department of Homeland Security. I am for creating a Department of Homeland Security, but the bill creating a Department of Homeland Security is not the end. That is not the alpha and the omega. That is not the end-all. We really will not have done our work. We will have only begun.

Many of those functions, I say again, will not be transferred into the Department by this legislation. That is why I say we ought to stop, look, and listen

to what we are doing. The administration would like Congress to pass just a mere piece of paper, as it were, handing the Department of Homeland Security over to the administration, saying here, Mr. President, here it is. It is yours, lock, stock, and barrel. Take it. We are out of it. We will stand on the sidelines.

That is what we would do if we were to pass the legislation supported by the White House. If we were to pass the legislation that has been sent to us from the House, we would be doing just that. We would be passing a bill creating a Department of Homeland Security in the Lieberman bill, legislation that would say: A Department is created. Here it is, Mr. President. It is yours. Take it. Do what you want with it. You have the next 13 months in which to implement this legislation. It is yours.

I am not in favor of doing that. I am in favor of creating a Department of Homeland Security, but I am not in favor of Congress doing that and then walking away and saying: It is yours, Mr. President; for the next 13 months we will go to the sidelines. I am not in favor of that.

I don't know why some Senators seem not to be exercised about it, but my blood pressure has gone up a little bit about the very idea of handing this over to the President and to this administration and saying: Here it is. It is yours.

That legislation, when we send it to the President, will not be all; we will have created, under Mr. LIEBERMAN's bill, we will have created a Department, we will have created six directorates, we will have created the superstructure of a Deputy Secretary, six Under Secretaries, five Assistant Secretaries, and so on.

That is OK with me. Let's create that superstructure. That is fine. But when it comes to transferring the agencies into that Department, how many agencies are there? Some say 22. Some say 28. Some say 30. How many agencies are there? What agencies are they? By what criteria were those agencies selected? Who said that this agency ought to go in but not that one? And why should this agency go there and not that one? Why should that one go in? Why not this one?

So all that is going to be left up to the administration. We are going to leave it up to the administration as to the agencies that will go in, as to their functions, as to their objectives, as to their assignments. We are just going to turn it all over—lock, stock, and barrel—to the administration.

That is the way it would be under the administration plan. That is the way it would be under the House plan. That is the way it would be under the Lieberman plan. I am trying to improve the Lieberman bill. I am saying, OK, let's do the superstructure. Let's have a Secretary. Let's have a Department of Homeland Security. Let's have a Secretary. Let's have a Deputy Sec-

retary. Let's have six directorates, as Mr. LIEBERMAN proposes. Let's have five Assistant Secretaries. I am in favor of that. That is all in title I.

But I am saying, whoa, whoa, whoa, whoa. Let's not go too fast now. Let's create this over a 13-month period. Let's have the work done under a 13-month period, as the Lieberman bill would do. Let's create all this. Let's create the superstructure. Let's have it completed in 13 months, as Mr. LIEBERMAN would do.

He would have the Department and the superstructure and the agencies, their functions, and everything within 13 months, beginning with 30 days after the bill is enacted into law. Then there would be 12 months in what is called a transition period. Mr. LIEBERMAN would have that. I would have that, too. But I would say, let's wait a little bit. Let's slow down a little bit. Let's not just turn this over to the administration and let them have it and we walk away.

When I say "we," I mean the Congress, the people's representatives. I am saying Congress should stay front and center in the mix. Let's have, say, one of the directorates go forward beginning on February 3. There are six directorates. One is in title XI. I don't touch title XI. That deals with immigration. I don't touch that, certainly not at this point.

But for the other directorates, I would say, OK, on February 3 we will create one directorate and, Mr. Secretary, you send up to the Congress your proposal as to how we flesh out that directorate, as to what agencies go into that directorate—what agencies. Of course, that directorate is going to deal with border and transportation security.

Mr. LIEBERMAN and his committee and Mr. THOMPSON have created six directorates. One of them is Border and Transportation Security. My amendment would say, OK, let's take border and transportation security in that first directorate, and, Mr. Secretary, you send up your proposals for transferring agencies into that directorate to make it work. You have 120 days to do that—that is 4 months. That is February 3 that we start, because that is the day the President sends up his budget.

Then we say, 120 days later—4 months later—Mr. Secretary of the Department of Homeland Security, you send up your proposals for the next two directorates. The next two directorates are the Directorate of Intelligence and the Directorate of Critical Infrastructure—the Directorate of Intelligence and the Directorate of Critical Infrastructure, those two directorates that are created by Mr. LIEBERMAN's bill. See, I am with Mr. LIEBERMAN on that.

But I am saying: Wait just a little bit. Let's hold our hands on the bridle here. Let's not let this horse run away with this wagon. Let's hold up here. You send up your proposal, Mr. Secretary. I assume that might be Mr.

Ridge or somebody else, I don't know who; it is the Secretary we are talking about. Yes, you send up your proposals 120 days after February 3 while the fleshing out of the Border and Transportation Directorate is going forward. Then, 120 days later, we say to the Secretary: Send up your proposals for these next two directorates, the Directorate of Intelligence and the Directorate of Critical Infrastructure.

All right. The Secretary, then, will send up his proposals for those two directorates. And as far as time is concerned, 120 day later, then—that would be June 3—120 days later would be something like October 1. All right. Let's have the Secretary send up his proposals for the fourth and fifth directorates.

Here they are, the Directorate of Emergency Preparedness and the Directorate of Science and Technology. I did not create these directorates; these directorates are to be created under Mr. LIEBERMAN's bill, under his substitute for the House bill. I am taking his words for gospel, and I am saying: OK, let's go along, let's have those directorates. But I am saying, February 3 we will have the proposal for the first directorate; June 3, let's have the proposals from the Secretary of Homeland Security for the next two directorates; then, on October 1, we say to the Secretary, now send up your recommendations to Congress concerning the last two directorates in title I: that is, the Directorate of Emergency Preparedness and the Directorate of Science and Technology.

So, there you are, we do it in a staged fashion. One directorate; 4 months later, two more directorates; 4 months later, two more directorates. By the end of that next 4 months, the 13 months would be up, so we will be within the same total timeframe as is envisioned by Mr. LIEBERMAN's committee. It envisions all this being done within 13 months—13 months following the passage of the Act.

We are saying the same thing, but we are saying don't do it all at once, and we are not going to give you authority, Mr. President, to do it all at once. We are saying do it, some here, some there, and some there, and let Congress be in on all this all the time—all the way.

How does that come about? All right, each set of proposals from the Secretary of Homeland Security will come to the Congress, and they will go to the committee, the Lieberman committee, and its counterpart in the other body. So both the House and Senate will be working on these sets of directorates in stages. Congress will be front and center. Congress isn't going to hand this thing over and then abdicate its responsibility and walk away and stand over here on the sidelines. Congress is going to stay involved. That is what my amendment is about. Let's keep Congress involved.

What happens then? All right, let's take the first directorate. That is Border Transportation. The Secretary

sends up his proposals to Congress. The proposals, as far as the Senate is concerned, go right straight to the Lieberman committee. Mr. LIEBERMAN and Mr. THOMPSON stay right front and center. They take these proposals in their committee; they amend them, they adopt them, or whatever. Whatever that committee wishes to make of the proposals that are sent to it by the Homeland Security Director, that committee reports that out as a bill. It comes to the Senate.

Oh, that is going to delay. Oh, my goodness, you say, that committee is going to report out another bill and the Senate is going to have to work on it?

Yes, that is true. But we can prepare expedited procedures. So I say let's prepare expedited procedures. If we do it in that fashion, we can prepare expedited procedures where the bill is not delayed, where it is not filibustered—it can't be filibustered under expedited procedures—and the Senate will take that and, under expedited procedures, will consider it. It is not going to be a—what is that infernal thing called?—fast track. That is right, fast track. Under fast track, the Senate doesn't get a chance to amend, but under these expedited procedures I am thinking about, the Senate will be able to work its will and amend the bill that is reported out by Mr. LIEBERMAN and by his committee's counterpart on the other side, in the House of Representatives.

That committee would report the bill out to the Senate, the majority leader would call up the bill, and it would be acted upon under expedited procedures and disposed of.

Four months later, when the next item came up here, the Directorate of Intelligence and the Directorate of Critical Infrastructure, the same thing, same procedure would obtain. The Secretary of Homeland Security would send his proposals to the Congress.

The reason I don't say the President is that if I did, I would make my amendment fall, if cloture were to be invoked on my amendment. If cloture were to be invoked, it would fall because it would not be germane. I have tried to construct this amendment so it would stand the test of germaneness in the event cloture were invoked on this amendment.

So instead of the President sending it up, it would be his man—it has to be his man, the Secretary of the Department of Homeland Security. The Secretary would send the proposals to the committee, to Mr. LIEBERMAN's committee. Mr. LIEBERMAN's committee, under expedited procedures, would go over the recommendations from the Secretary and send them, in amended form perhaps, to the Senate floor to be taken up here and passed.

So the same thing, the same procedure, would obtain in each instance where a directorate or directorates were being fleshed out by agencies.

Are we talking about 22 agencies here? No. Twenty-six agencies? No.

Twenty-eight agencies? No. Are we talking about 30 agencies? Maybe no, maybe yes. Who knows?

In any event, the concept is this:

That we avoid the chaos of just passing this bill today—say this is the bill before the Senate today, and it is passed by the House and the Senate and sent to the President. We avoid the chaos that will prevail throughout the affected agencies of Government if this bill is passed and sent to the President because it is all done at once. We hand it over to the President lock, stock, and barrel. We walk away. And the President may take 6 months or he may take 8 months or he may take 13 months before he sends up all of the recommendations dealing with 6 directorates and 22 agencies—or 28. He may take all.

Under my amendment, we say no. Let us just take some at a time. Let us see how it works. Let us create that first directorate. Let us have the recommendation of the Secretary of the Department. Let us have his recommendations. Let the Senate, Mr. LIEBERMAN, and the committee look at it. His committee looks at it and reports the bill to the floor. Let us have the Senate look at it, and the same thing in the House but all under expedited procedures.

We do some here, do some there, and do some later on. We stage it. We phase it in. We don't just hand it over lock, stock, and barrel, and say: Here it is. It is yours.

We avoid the chaos of doing it that way. Let us do it in an orderly way. Let us have an orderly process so we really do not do damage to the proposal by Mr. LIEBERMAN. As a matter of fact, in my way of looking at it, we don't vote. My amendment will say we will create the Department just as Mr. LIEBERMAN creates the Department. We will create six directorates just as Mr. LIEBERMAN creates six directorates. We will have a Secretary and a Deputy Secretary, and we will have seven other Secretaries, and five Assistant Secretaries just as Mr. LIEBERMAN has the same number.

We are with you, Committee, Mr. LIEBERMAN's committee. We are with you. But instead of just passing this bill and wiping our hands and walking away, saying, I shall have no more to do with this, it is all yours, Mr. President, we are going to say: Here is the concept. Your Secretary will send up recommendations in intervals. There will be some of it at a time. We will do the first directorate. While that is going through the mill and during the 4 months when those agencies are being moved in, we are going to be taking a look at the next two directorates. But we will have in mind the flaws and the warts that we found in the first transactions. We will have had an opportunity to try. Let us see how it works. If there are flaws, if there are mistakes, we can correct them as we go along, and the next two directorates will not make those same mistakes.

When we set up the next phase, the final two directorates we will have benefited by whatever mistakes or whatever shortcomings may have surfaced during the creation of the preceding directorates.

It seems to me this is much more logical. It is an orderly process. It keeps Congress—the elected representatives of the people—in the process. And it keeps Mr. LIEBERMAN's committee—which is the committee that has jurisdiction over the subject matter—front and center.

Why not do it that way? Why not do it in an orderly way rather than just turning the whole thing over all at once and just washing our hands of it, and saying, that is it, it is up to somebody else?

That is not the way to do it. I think the concept is one that is unassailable. That is the way it would work under my amendment.

We think we are all in agreement. We are talking about at least two dozen agencies and 170,000 Federal employees. That is a big shakeup in our Government. There is virtually little debate going on here. There was a big rush to get this through in a hurry, pass it by September 11, or pass it before we go out for the August recess.

Norman Ornstein wrote an article in the Washington Post some several Sundays ago in which he pointed out the chaos. He referred to the chaos that will occur in this Government of ours if we go down the road meekly like lambs to the slaughter and pass this as the administration conceived it in the darkness of midnight in the subterranean caves of the White House; just go along like that with all of these agencies in turmoil, and we transfer 170,000 Federal workers.

Here they are—all moving their desks up Pennsylvania Avenue, and they are having to move the telephones and get new telephone numbers. They are having to move their computers, and they are having to do all this. And the people who work in those agencies are going to be shifted to another building with a new mailing address. All of that is going on at the same time. All of these agencies with 170,000 Federal employees all at once—all is going on in the 13-month period. They are going to be working in a different culture, in a different kind of atmosphere with different associations with different assignments than what they have been accustomed to—all of this at once.

What pandemonium will have taken over Pennsylvania Avenue. In "Paradise Lost," Milton wrote about the fall of some of the angels from heaven. He wrote about the rebellion against the Creator by these angels and how they conspired to take over. And they fell. They were run out of heaven. Satan and his angels of like mind fell with them. They fell like Lucifer from heaven, and they fell upon the boiling lake. Lucifer sat and built himself a palace there. That palace was called Pandemonium.

Do you remember that—those of you who have read Milton's "Paradise Lost"? He created a palace called Pandemonium.

That is exactly what will happen—pandemonium.

Go back and read Norman Ornstein. By the way, go back and read Milton's "Paradise Lost." But also go back and read Norman Ornstein's article in the Washington Post of some several weeks go. I will get it. We are going to be debating this beyond today. We certainly won't pass this bill today. I think we are sure of that.

So you have an opportunity to go back and read Norman Ornstein's very thoughtful and thought-provoking article about the pandemonium that will reign on Pennsylvania Avenue. He didn't put it in those exact words, but that is what you will be reading about—the pandemonium that will reign and the chaos that will reign when all of these angels—22, 30 of them—so many that nobody knows exactly how many agencies—but 170,000 employees have to rip up their telephones and their computers and carry them off and up and down the avenue. What chaos that will be. Who is going to be minding the store when all of this chaotic exercise is being carried out?

Who is going to be minding the store? Who will be watching the terrorists? What will happen to those people right now who are in the agencies of this Government right today? At 5:30, I suppose most of them are not still around; but certainly a lot of them are around, and will be around until midnight and after midnight. They will be out on the borders, securing the borders. They will be out there at the airports. They will be at the ports of entry to this country. They will be all along the border between Canada and the United States and the southern border between Mexico and the United States. They will be out there every hour of the 24 hours. They are out there right now, and they will be there tonight when, Mr. President, you and I are sleeping. They are out there right now.

But will these people be at their posts of duty when all of this chaos reigns, when we are going through all this big uprooting of the Government here in Washington, the uprooting of men and women who are at their jobs, at their desks, at their telephones today and every day?

They are at their desks securing our country, protecting our country, protecting you and me, and my grandchildren and yours. What will happen when all of this chaos reigns? These people will not know—"Let's see, where am I supposed to go? What room am I in? What is the number and the place I am supposed to go in this new Government?"

They will be saying: "Where is my computer? Where is my laptop? Where is it? And what is my new telephone number? And, by the way, what is the name of my agency here? Who is in charge here?"

Imagine the chaos. But under my proposal, we will do this in an orderly fashion. We will do the same thing Mr. LIEBERMAN does. In the end, we come out with the same Department, come out with the same directorates, the same number of directorates, named exactly like his directorates. We come out with the same number of Under Secretaries and Assistant Secretaries, the same thing. And we will do all that up front, the superstructure.

But the rest of it, flushing out the directorates, determining what agencies go in—we want to know, Mr. Secretary, what are your recommendations with regard to the agencies that go in here.

We will be doing all that in an orderly way, 120 days at a time: February 3, the first directorate; June 3, the second and third directorates; October 1, the fourth and fifth directorates. We do not deal with the sixth one because that is in title II. My amendment only goes to title I because I did not want to go and get mixed up and have any problems with germaneness in the event that cloture is invoked on my amendment or on the bill. So that is it. Why the opposition to my amendment?

So with Congress dumping the job of dealing with over two dozen agencies and 170,000 employees into the lap of the Secretary, he will no doubt be too busy trying to get his own house in order to spend his time worrying about what the rest of the Federal Government is doing. The Secretary of Homeland Security will not be in a position to coordinate agencies outside of his Department, so who will do it? Who will be responsible for managing and overseeing homeland security functions and resources across the entire Federal Government?

That is not like Condoleezza Rice. That is not like the Secretary of State. That is not like the Department of State. Hear me now. That is not like the Secretary of State. They do not concern themselves with agencies all across the whole Federal Government. But this one will. This Homeland Security Department will be concerned with functions and resources that cut across the whole Federal Government.

Who will be able to dedicate the time necessary to follow up on the operations of so many agencies in so many different Departments?

This is a brandnew Department. Let me tell you, this is a brandnew, shiny toy, unlike the State Department, unlike Condoleezza Rice's Department. I say what I say with great respect to her. But you cannot equate Condoleezza Rice's position with the position of the Director of Homeland Security. Why, her Department was created more than 200 years ago. But not this Department.

This is a brandnew Department. It cuts across virtually all agencies of Government; something new. Then how could we equate the National Security Adviser and her position with this new Secretary, this new Director of Homeland Security, who will be in the White House, untouchable?

One of my favorite movies, in the old days, when we had black and white television—I can remember back in 1953, I believe it was, or 1954, when my wife and daughters went to one of the stores around here and bought a new television set. Yes, television had not been around long. It just came upon the scene in 1926. I did not have a television set in my house.

One evening, I went home from my daily work in the office of mine representing the old Sixth Congressional District in West Virginia, where the current Presiding Officer was born, the distinguished junior Senator from Delaware, who sits in the chair today and presides over this body with such dignity and poise. He was born in that old Sixth Congressional District. That was the district that I represented. Well, that was back in the years 1953, 1954, 1955, 1956, 1957, and 1958.

And one day, when I went home for supper—we called it supper over at our house. We are just country folks. I went home to supper. I had my supper. My wife and I and our two daughters walked into the living room and sat down. And she said: Do you see anything new? I looked around. She said: Do you see anything new in the living room today? I had not seen anything new, but as I looked around, there it was, a brand spanking new black and white television set—black and white.

Well, my favorite movies in those days were clean. And they were wholesome movies. There are a few of them left but not many in this day and age. We talk about other people being evil, about Saddam Hussein being evil; just take a look at the television programming in the evenings. I saw, on one of the evening shows—I turned the TV on the other night. I seldom turn it on, but you can't help but see some of them. And I saw some beautiful young women on there, and they were saying words that I wouldn't say, and I have said them all in my time. But I don't like that kind of language in the living rooms of the country.

How can we say somebody is evil? We need to take a look at our own self. I cannot look in the mirror and say I am not evil. Nor can any other man, truthfully. Because we have a little bit of Satan in us. We have a spark of the Divine in us. That is why there is an afterlife. And we will have to answer for what we have done in this life.

So there is that black and white television set over there. And I liked "Gunsmoke." I kind of liked old Matt Dillon in those days. And I liked "The Honeymooners," Jackie Gleason. And I liked the "Untouchables" in those days, Elliott Ness.

But here we have the untouchables at the White House. Don't touch them. Don't have them come up here. Don't have them come up. They are the untouchables. Don't have them come up before the committees.

This administration thinks we should not have someone of that stature, the stature of Tom Ridge, come up before a

committee of the Senate. Who will be responsible for managing and overseeing homeland security functions and resources across the entire Federal Government? Who will be able to dedicate the time necessary to followup on the operations of so many agencies in so many different Departments?

Now, I don't want Senators to go home yet. I have been trying to tell Senators that this is a very important step we are being asked to take, and we ought to be paying attention to it. I have been saying that to the administration. Don't push it too fast.

Let's don't be stampeded by this administration. The President is out there with his backdrops saying: Contact Congress. Tell them to pass my bill, pass this bill on homeland security.

Well, let's just slow down a little bit. So I say, I wouldn't go home quite yet if I were Senators because there might be a vote here yet, or there may not.

Who will have enough authority to twist the arms of bureaucrats when implementing homeland security policies in the field proves harder than dreaming them up in the basement of the White House?

Who will do all this? Tom Ridge, will he do it, the man who refused to testify before Congress when the Nation most needed to hear from him? No. He had time enough to run around all over the country and speak to chambers of commerce and this organization and that organization about his Homeland Security Department and to say awful nice things about what he was going to do and all of that. He had time to go to Canada. He had time to go to Mexico and talk to the heads of state in some of those areas. He had time to do that, but he didn't have time to come up here and talk with these peons who are sent here by the people out there on the prairies and on the plains and on the mountains and in the valleys and in the fields and in the mines and on the stormy deep. He didn't have time to talk with us.

I think he would have come, but the President wouldn't let him because of this misguided perception that, well, because Tom Ridge was an "adviser" to the President, he didn't have to go up there; because he is on the President's "staff," he didn't have to go there.

This is a different kind of staff. This is a different kind of adviser. Here is a man who goes all over the country speaking about homeland security, about his plans, about what is going to be happening, what is going to be done, what are the concerns, what are the fears, what are the things we have to guard against. But don't go up there in that briar patch. Don't go up there to Congress. Don't go up there and talk to those people. They are the elected representatives of the people. Tom Ridge isn't elected by anybody.

But those people up there, those men and women up there in the Halls of Congress, they are elected, and they have to go back at times and answer to

the electorate for what they have done or not done. They have to cast votes. They have to show down, and they have to go back home and explain the votes to the people. No, don't go up there to them.

And there is that fellow BYRD up there and that fellow STEVENS. One is a Democrat and the other one is a Republican. They want Tom Ridge to come up there. And those two guys—I will say "guys" because that is all right; that term is used a lot around here these days—those two Senators. The President could even say: I have a letter on my desk written to me by TED STEVENS and by Senator BYRD asking me for an appointment. They want to make their case about having Tom Ridge come up there.

But the President of the United States didn't show Senator STEVENS or me the courtesy of even writing a letter back to us or calling us on the telephone saying: I received your letter, Senators, but I am of a different opinion. This is why I don't want to send him up there.

No, the President didn't show us that courtesy. He had some underling—and I say that with great respect—a person who wrote the letter. I think there were one or two of them down there who wrote letters back to me and to Senator STEVENS saying: The President has received your letter and this is why it can't be done or won't be done.

Now, how do you like that? Here is the President pro tempore of the Senate, the senior Democrat in the Senate of the United States has written asking the President for an invitation, asking for an invitation to come to the White House to discuss having Mr. Ridge come up before the Senate Appropriations Committee when it holds important hearings. Is that changing the tone in Washington? Is that changing the tone in Washington?

Here is the ranking member on the Appropriations Committee, former chairman of the Appropriations Committee from the Republican side of the aisle, a man, who knows, who could be the next President pro tempore of the Senate, the man right here at this desk who sits in this chair on which I hold my hand at this moment. Here are two very senior Members. Not that all wisdom flows from the limbs and joints and brains of these two Senators, but they have been here a while. They are the chairman and ranking member of the Senate Appropriations Committee.

We wanted an opportunity. We had been turned down in our letters. We had been rejected. We asked for an invitation. We asked for the President to give us an appointment. Let us come down and explain our case for having Tom Ridge come down.

Did the President ever invite us down? No. No. Was that changing the tone in Washington? That didn't do any good. That didn't help at all.

Here we are with the same thing. Here we have this administration wanting to turn hands down on the

idea of having the Homeland Security Director come up to the Hill and testify on his confirmation and have the Senate vote to confirm. Why not? Why not?

This Constitution that I hold in my hand tells me that the Senate may confirm or will confirm. Certain offices will be appointed by the President, by and with the consent of the Senate. And up until this point, I don't remember Presidents dictating to the Senate as to what offices the Senate may create and which will be confirmed and which will not. I don't remember that happening. This is a new leaf in my book of 50 years here in Congress, the very idea.

And now we want to say, OK, Mr. President, we will do it your way. We will yield on this. You can appoint your man. We won't require him to be confirmed.

So are we going to hand over this responsibility to Tom Ridge, to entrust him with these important duties that extend far beyond the White House gates, after he has already clearly demonstrated an unwillingness to cooperate with Congress on a matter that directly affects the hearts and lives of every one of our constituents?

That is how important it is. This is a matter that affects the hearts and lives of every one of our constituents. Senator THOMPSON says we should. He trusts the President to command the secret war on terror without input from Congress. I guess Senator THOMPSON—and I have great respect for him—feels confident that Tom Ridge has enough clout to do the job. But I am not sure that one man's clout will be enough. On my side of the aisle there are Senators who are willing to say the same thing.

Well, they say that vote has been decided earlier today. I don't believe that has been decided earlier today. The question we voted on earlier today went beyond that. John Dean, the former counsel to President Nixon, knows something about putting Executive power in the hands of White House advisers and beyond the reach of congressional oversight. This past April, Mr. John Dean wrote a column in which he expressed concerns about entrusting such responsibilities of coordinating homeland security to a White House aide with no statutory authority.

Where is the statutory authority for this White House aide? Oh, I know the President issued an Executive order, but where is the statutory authority for it? Somebody has to ask for money once in a while. Money doesn't grow on trees. They have to come here at some point. This old Appropriations Committee is a waterhole. Out there in the great forest are a lot of animals. They roam around out there, and when the night comes and the shadows and the curtains of night come, you will hear something rustling in the leaves and you will hear a limb crack and a twig break. By golly, there are animals out

in that forest. At some point, they all have to come to the waterholes, don't they? The birds, the bees, and the animals on four legs—don't they have to come to the waterhole at some point? Well, the Appropriations Committee is the waterhole. At some point, these people down at the other end of the avenue also have to come to the waterhole.

I know the President is Commander in Chief, whether he is a Democrat or a Republican. It is so stated by this Constitution, which I hold in my hand. But the Commander in Chief, the President, shall be the commander in chief of the Army and the Navy and the militia when called into service to the country. But suppose Congress doesn't provide an Army and Navy for the President to command? Yes, he is the Commander in Chief.

Charles I of England, in 1639, I believe, was the first to use that term, "commander in chief." That goes back a long ways, to 1639.

But in 1649, Charles I lost his head. His head was severed from his body. That was Charles I of England. Some Senators may have forgotten it, but the Parliament and the King of England had a war. There was a war between the King and Parliament. Can you imagine a war in this country between the President of the United States and Congress? That is the way it was in England.

You can change history all you want and you can talk about political correctness all you want, but the people who wrote this Constitution were British subjects. Some had been born overseas. Alexander Hamilton, James Wilson, and several of them were first immigrant descendants. There was Franklin and there were others, and I believe James Morris may have been born in England. In any event, these were British subjects. Some were Irishmen, some were Scots, but they were British. You can say all you want, and political correctness is not going to change that. This Constitution was written by men—not women. In that day they did not have women elected as delegates to the convention, but there were the men, British subjects. They knew about the history of Englishmen. They knew about the struggles of Englishmen. They knew about the Magna Carta, which was wrung from a despot in 1215, along the banks of the Thames River. On June 15, 1215, they knew about that. They knew that the barons stood there with their swords in their scabbards. They knew that Englishmen, going back for many years under the Anglo Saxons, after William of Normandy came to England in 1066 and brought feudalism to England, they knew the Englishmen had fought and shed their blood for the concept that the people should be represented by elected representatives in the Commons. They knew—those men who shed their blood—the power of the purse would be vested in the Commons, in Parliament.

Englishmen fought for centuries in order to win that battle over the power of the purse. They knew that in 1688—let me go back to 1649 for just a minute. I was earlier talking about the war between King Charles I, who believed in the divine right of Kings, and his father, James I of Scotland, was also a devotee of the idea that the King was God's immediate representative on Earth. So they believed in what is called "divine right of Kings." James I was a very strong devotee of that idea. His son, Charles I, was as much a devotee of that misguided idea—maybe more so—than James. But Charles I carried it a little bit too far. The High Court of Justice was created January 3, 1649; and on January 30—less than a month later—Charles I lost his head before perhaps 200,000 people.

What followed that, in quick measure, was the Commons outlawed the Lords. There would be no more King, no more House of Lords.

So our forefathers knew all about this. They knew how Englishmen had shed their blood to wrest from tyrannical monarchs the power of the purse because the power of the purse is the greatest raw power that there is in government.

Cicero, that great Roman orator said, "There is no fortress so strong that money cannot take it." So there you have it. The Englishmen knew that. Our forebears knew that. So the men who wrote the Constitution knew that. And they knew that this right that elected representatives of the people have control over the public purse had been set as an example back in the British Isles from which they—most of them or their forebears—had lately come.

So there you have it. That is history. There is more to it than that, but that is just a little of it.

(Mr. DAYTON assumed the Chair.)

Mr. BYRD. Mr. President, going back to Mr. Dean's column—as I say, he wrote it back in April of this year—he expressed concerns about entrusting responsibilities, such as coordinating homeland security, to a White House aide with no statutory authority.

John Dean raised a number of important questions which I will now ask the Senate. I quote John Dean:

Would the departments and agencies fall into line when a senior White House aide so directed them?

How about it? We are talking about just an aide. He has not been confirmed by the Senate. How about the Secretaries of the Departments who have been confirmed, who come before the Congress, who come before congressional committees and answer questions and give testimony and are witnesses? Would those senior White House aides fall into line when this upstart, who has not been confirmed by anybody, except the President appointed him to this position—he is a White House aide—are those Department heads going to stand and salute when Tom Ridge tells them to fall into line? How about that?

What authority does he have? Does he have authority over these people, these men and women who are in Cabinet positions, who have stood before the bar of the Senate and been confirmed to their positions?

Would the Cabinet officers follow orders from anyone other than the President himself? Could a senior White House aide resolve long-time department rivalries?

How about that? We know there have always been Department rivalries going back to the early days of this Republic. Would this senior White House aide, who does not have to come before Congress and answer questions about his own budget, would these Department heads, these Cabinet officers who do come before the Congress and they have been confirmed by Congress—they come here about their budgets—would they be brought into line by this upstart, this fellow who is here?

I know he is here by the grace of the President, but could a senior White House aide resolve long-time Department rivalries such as those between the CIA and the FBI? We have heard about that, haven't we?

Can this White House aide crack the whip, and these heads of agencies, such as the CIA and FBI, will they jump to attention, salute, and say, yes, sir; yes, sir; no, sir; yes, sir? Could the senior White House aide resolve long-time Department rivalries like those between the CIA and the FBI, or Treasury and Justice, law enforcement responsibilities?

Could this White House aide get the Border Patrol, the Immigration and Naturalization Service, and Customs operating like they all belong in the same Government?

What authority does he have? He is just the President's man; that is it. He does not have any statutory authority. He is not confirmed by the Senate. How would you feel, Mr. President, if you were a Cabinet officer in this administration, and you had someone who was not a Cabinet officer, who had not been confirmed by the Senate, a new man on the job, a new office on the street; it is a brandnew office. It is a new office, what will be a new Department. But this fellow down here who really runs things does not have to go up before Congress. Here I am, a poor old Cabinet officer, and I lie awake at night worrying about how I will answer these questions when I am called up before that committee tomorrow and all those klieg lights will be on me, and they will ask me questions about money, how I have been spending it all. Here I have to go up there tomorrow. This man does not have to go up. All he has to do is go up to the "Commander in Chief."

By the way, the Commander in Chief—let me read from this book so people will know this is bona fide. If I had to, I could say it from memory. Here is the Commander in Chief. He is not the Commander in Chief of industry.

The President shall be Commander in Chief of the Army and Navy of the United States,

and of the Militia of the several States, when called into the actual Service of the United States. . . .

But he is not the Commander in Chief of industry. He is not the Commander in Chief of the Congress. But here I am, a Cabinet officer, and I have to go up there and listen to those people up there. I have to go up there and sit at a table, way past the lunch hour, and listen to those Senators, be criticized by them. And here is this man. He is not confirmed by anybody. He just stands at the Commander in Chief's desk and salutes and says: Yes, sir; no, sir; not my will but thine be done.

I do not believe a man or a woman who is thrust into that kind of a position is going to relish being in that position because he does not have any statutory authority behind him. It would seem to me a person in that position would want statutory authority behind him; get the statute behind him. He would want to be confirmed. Yes, he then has the authority, the authority of the legislative branch, as well as his own appointment by the Chief Executive, behind him.

The next question:

Could an aide, such as the homeland security director, get the Border Patrol, Immigration and Naturalization Service, and Customs operating like they all belong in the same Government?

I have been quoting Mr. John Dean.

Mr. President, Mr. Dean concluded that homeland security is too important an issue for a Nixon-style executive leadership.

Here is a man who was in the Nixon administration, the counsel to President Nixon, John Dean. Mr. Dean concluded that homeland security was too important an issue for a Nixon-style executive leadership and that congressional oversight and the collective wisdom of Congress are essential in dealing with a threat of such magnitude.

I agree. Why do we have to fuss and fume and fight over whether or not this person should be confirmed? The President ought to say: Okay, let's get on with it; let's confirm him. I will name the person, and, with the advice and consent of the Senate, he will serve.

What is wrong with that? That has been the case for over 200 years. Some Presidents have suffered defeat when it came to their nominees. I can think of John Tyler, especially when he was fuming and fussing around with the Whig leaders in the Congress. What is so bad about that? After all, I would welcome that. Let him be confirmed by the Senators. That will give him more authority. It makes him more bona fide in the eyes of the people. He would stand before the American people with more authority. What is so bad about that? That is not anything damaging to the President. Requiring a person to be confirmed is not demeaning to the President. So why should we Democrats be willing to roll over and play dead on it?

They say: Oh, they have the votes on the other side.

Well, that is all right. Let's have a vote at some point; let's not just say roll over and play dead. It is far more important for us to stand for what we can look back on 10 years from now and say we did the right thing, we were right, than just for a day to say, well, we will avoid this fight, they have the votes, and let's go on.

That is not enough. Let us make the case for confirmation, and if we go down to defeat, the record will be there. And later, when the pages of history are turned one by one and we can then look back on the mistakes that may have flowed from that very act of having an individual in that position, not confirmed by the Senate of the United States, we will know that we stood for the right; we stood for what was best for our children and grandchildren.

This job is too important to be left to Tom Ridge alone. I do not say that with any disrespect to Tom Ridge. I could not speak of him with disrespect if I wanted to. The man was a Governor; he was a Member of the House of Representatives in earlier days. He is a respectable man. So I do not speak of him as a person; I speak of him as an officer who will be in a key position for the first time in over 200 years, an untried position, an untried office, in times that are trying but not yet tried really. This job is too important.

So if you want to beat me, beat me. Go ahead. Roll over me. I will not get on your wagon. This is a principle, and I think a lot of people, if they listen to me and hear what is being said and if they will study this bill, sooner or later they are going to come around to my viewpoint. I think the American people, if they heard it, would say: Senator, you are right; this position is too important to be left to Tom Ridge alone, too important to be left to a President to appoint, and that ends it.

I know the President is elected, but an electoral college sends him here, an electoral college sends Vice President CHENEY here, but no electoral college sends me here. The Senator from the great State of Minnesota, who is now presiding—by the way, one of his ancestors was a signer of the Declaration of Independence. He signed from the State of New Jersey. His name was Jonathan Dayton, and Senator DAYTON of Minnesota today sits in the chair. So we were sent here by the people.

We cannot rely on a confidential adviser to the President to orchestrate Federal homeland security policy unilaterally and in secret. What is going on here? What is this all about? Why the stiff jaws down at the other end of the avenue against having this man come up and testify? He knows the answers. That is why Senator TED STEVENS and I wanted him up before the Appropriations Committee—because he knows the answers. He is the President's point man on homeland security. That is the way it will be.

I do not mean to drag over the old ashes all the time, but that is the same

way it will be if the Congress puts its rubber stamp on this legislation and goes forward with the administration's desire of being able to appoint this adviser to the President in this very untried, really untested up until the last 8 or 10 or 12 months, position. That man has not been confirmed by the Senate. He has not answered questions for his confirmation, does not have to go up to the Senate and the House and answer questions before the Appropriations Committees. He does not have to answer questions from any other committees. He is the President's man.

Have you read about all the King's men? Well, this is not quite a monarchy yet, although I am afraid there are some Members of both Houses, I am sorry to say, who, by my perceptions at least, would be monarchists. They will do anything the President says should be done, and they will do it in the name of his being the Commander in Chief.

Well, the Commander in Chief of what? The Army and the Navy and the militia when it is called into service. But suppose Congress does not call the militia into service? That is done by statute. It has been on the statute books a long time. The Congress calls the Guard into service. It passes the laws. Who creates the Navy and the Army? Look in article I, section 8, and you will find out who. Congress shall have power. Who provides the money to keep these agencies running? Our English forbears said: We will appropriate money for an army, but just for a year at a time. In our Constitution, we took a leaflet out of our English forbears at the time and said 2 years at a time, not more than 2 years. This Constitution still governs. I have not heard much about it in recent days.

I listened last Sunday to all the talking heads and everybody on certain programs because I saw in the newspaper that some pretty important people were going to be on television. I saw that the Vice President was going to be on, Secretary of State Powell was going to be on, Secretary of Defense Rumsfeld was going to be on, and National Security Adviser Condoleezza Rice was going to be on. I thought I had better listen to all of these people. So I did. I listened to them. I listened to every one of them. Not once, and not once in all of the debate I have been hearing around here and downtown and at the U.N. and everywhere else, not once have I ever heard the Constitution of the United States mentioned. Now, it may have been on one of those Sunday programs. I may have missed it somehow, but not once did I hear the word "Constitution" mentioned.

These smart lawyers down at the White House—and they are smart; I studied law, never with any intention of being a lawyer. I probably wouldn't have been a good one anyhow. But in any event, these smart lawyers down at the White House say the President has legal authority to unilaterally deliver an unprovoked attack against

Iraq as a sovereign State. I have as much fear and as much concern and as much contempt for Saddam Hussein as does any other man or woman. But it takes more than just legal authority.

These smart lawyers can line up on either side. You can hire a good lawyer on either side. You can hire a good lawyer to take this side of the case over here or you can hire that same good lawyer for this side of the case. A smart lawyer can come in with an almost impenetrable case.

But that is not the point. The Constitution is there. The Constitution is there. I hold a copy of that Constitution in my hand. It is, other than the Bible, my guiding light, this Constitution. Constitutional scholars in this land agree with me. Just legal authority is not enough. It is the Constitution. It is there. It is always there morning, noon, afternoon, night. The Constitution is always there. But not once, not once was this Constitution mentioned on any of the networks that I listened to last Sunday in the discussions about a possible war into which this country was being—at least in some quarters—stampeded into. We were going to war. We were going to be in a war. Our collective minds at the head of Mount Olympus had been made up already. The President had the legal authority.

Legal authority, my foot. It is the Constitution we are talking about. The Constitution says the Congress shall have power to declare war. I know that only five wars have been declared, but that Constitution is still there. And there are at least six other wars to which statutes have been passed by Congress, dependent upon as authority. What has happened to us all when we just go forward blindly without looking to the left or the right, saying we will go to war. We will change this regime. We will do it, I will do it, or it will be done.

How about those 535 Members who sit up there on Jenkins Hill? How about them? They have certificates showing that they were duly elected by the people—not by an electoral college but they were sent here by the people. Are we going to disregard them? And these people who sit up here on Jenkins Hill ought to read this Constitution again. Many of them have, I am sure. But let us not disregard this Constitution.

The President has legal authority to do this and do that. When it comes to war, this Constitution says the Congress shall declare war. We can talk a long time about this subject, too, and probably will. As far as I am concerned, we will, if the Lord lets me live.

Legal authority: We have an organic law that says Congress shall declare war. I know the President has inherent authority and that it comes from this Constitution, too—inherent authority to act to repel a sudden attack upon this country or upon its military forces. He may not have time to talk with Congress. He may not have time to get a declaration of war from Con-

gress. He may not have time to get an authorizing measure from Congress. He may have to act. In that case, this Constitution gives him that inherent authority.

We are talking about an unprovoked attack by this country, an unprovoked attack upon a sovereign state. It does not make any difference if we do not like the person who is the head of that State or who is running it or who is a dictator, of course. The fact we do not like him is not enough. Congress shall have the power to declare war. We are going to talk about that a while.

I noticed a column in one of the great newspapers this morning which virtually had our minds made up for us. We are just going to go. We are going to do this.

Incidentally, I will have more to say on that subject at another time.

This job we are talking about is too important to be left to Tom Ridge alone. It is too important to be left to Tom or Dick or Harry alone. We cannot rely on a confidential adviser to the President to orchestrate Federal homeland security policy unilaterally and in secret—in secret. This administration wants to act in secret too much. The Government's fight against terrorism is bigger than a Department of Homeland Security. Isn't it? They want to fight over this little fellow—he is not just a little fellow once he is down there behind that desk—but they want to wage a big fight against terrorism, and it is a fight that is bigger than the Department of Homeland Security and it is too big for Tom Ridge or any other Tom, Dick, or Harry.

He needs the authority of the legislative branch behind him. In accordance with the Constitution, the President shall appoint thus and so by and with the consent of the President.

His position ought to be made subject to the confirmation of the Senate.

My Appropriations Committee brought an appropriations bill to the floor. This bill was the fiscal year 2002 supplemental that was brought before the Senate in the early part of the year, sometime around June or July. In that bill, as reported by the Senate Appropriations Committee, made up of 29 Senators, 15 Democrats and 14 Republicans, that bill had a provision that provided that the Director of Homeland Security must be someone confirmed by the Senate of the United States. That was in the bill.

It was brought here before this body, and it passed the Senate by a huge margin. I think there were more than 70 votes cast for that appropriations bill. That provision was in it. Senators knew it was in it because we brought it up in the Appropriations Committee of the Senate. It was there. There was never any attempt to strike it. There was no attempt to amend it. In that provision all Senators knew, they had their eyes open, they didn't have blinders on, and it wasn't something done in secret. It was right there in the bill, and we had it in the Senate here, ev-

erybody knew about it, and not one, not a peep did we hear against that provision here in the Senate. It passed the Senate and went to conference.

Then the administration saw the handwriting on the wall. They must have been reading about Belshazzar in the Book of Daniel.

Belshazzar had a great party, a great dinner thrown. And he had his soothsayers and his lords and his highfalutin officers and all. Belshazzar, King. He was having all this mirth. He invited a thousand of his lords. This was a great function there on the banks of the Euphrates River.

All the mirth was going on. Everybody was laughing, drinking, toasting, feasting. And all at once, there, over near the candlestick, appeared a man's hand, and that man's hand wrote something on the wall near the candlestick. And Belshazzar, the great King, wondered what it was, and he became obsessed with fear, and his knees buckled, and his hand trembled, and he brought forth his magicians, his medicine men, and his soothsayers, and he asked them: What is that saying? What are those words over there?

And somebody said: Well, we can't answer this. We don't know what those words are. But there is a man, a young man, who can interpret these words for you, O King, and his name is Daniel. He is in prison. I believe he was still in prison. They said: This young man can interpret these words.

The King said: Bring him to me. And the King said to Daniel—I hope I am not getting two of my Biblical stories crossed up. It is late in the day. I hadn't counted on saying this. But I believe the King promised Daniel that he would have half the kingdom if he could interpret this dream. He would be clothed in the richest of garb and be made ruler of half the kingdom.

Anyhow, Daniel said: These are the words, O King:

MENE, MENE, TEKEL, UPHARSIN.

Meaning this:

Thou art weighed in the balances, and art found wanting.

Thy kingdom is divided, and given to the Medes and Persians.

That is not the entire interpretation, but that is most of it.

MENE, MENE, TEKEL, UPHARSIN. Thou art weighed in the balances and are found wanting. Thy kingdom is divided, and given to the Medes and Persians.

And that night, Belshazzar was slain and his kingdom was divided.

Why have I told this story? I told the story about Belshazzar, the handwriting on the wall. This administration saw the handwriting on the wall. Here was this appropriations bill coming right down the road like a Mack truck, and it had in it the language to the effect that the Director of Homeland Security would be appointed by the President with the advice and consent of the Senate.

The administration saw that coming, and it was coming like a Mack truck. So the administration, as it sometimes

does—and I don't blame it for doing it—decided it would try to get ahead of this wave that was coming. The administration, lo and behold, came up with this grand idea of having this homeland security agency, and this was all cooked up and hatched down at the White House, down there in the subterranean caverns.

I don't think it would matter if electricity were cut off. If there had been a big storm and all the electricity cut off, it wouldn't have mattered because they probably had lanterns, candles, down in those subterranean, dark caverns where shadows can be seen flitting around—shadows in the cave. That brings up another story, but I won't tell it right now.

In any event, here these people were, and they saw this Mack truck coming down the road, this bill that had been passed by the Senate, an appropriations bill saying that we are going to have the homeland security man answer to those Senators up there.

You see, we had invited him, TED STEVENS and I invited him time and time again. He wouldn't come. We had written to the President of the United States, thinking: Well, he will hear us, he will listen to us. He is a man who said he wanted to change the tone in Washington. He will hear us: Mr. President, please let us come down and visit with you, and let us make our case for the Director of Homeland Security coming before the Senate Appropriations Committee.

Not a word did the President say, by telephone or by pen—not one. No. The President was going to change the tone. But here he wouldn't let this man come up. Why not?

So here is this bill coming down here saying: Yes, he will come. He will have to be confirmed by the Senate or he won't be the man in that position.

So the administration got busy and said: OK, we will get ahead of that wave. And here came the President, come out with this and he unveiled this beautiful new toy. And, by the way, it just swept over the country, the media grabbed onto it, and here we are now. We have this bill up before the Senate.

So the administration saw the handwriting on the wall and got ahead of the truck.

But it is still the same question before the Senate. Are we going to have this important position be filled by someone who will come up before the Senate, the committees in the Senate and the committees of the House and answer questions about the budget? So let us see that he does that, and we will make sure of that by making him confirmable by the Senate.

Oh, no. Now, that is going too far, says the administration and some of my friends on this side of the aisle and on that side of the aisle. They are perfectly willing out here today to accede to that and not contest that any longer. After all, Condoleezza Rice doesn't come up there. She is the National Security Adviser. The Congress

doesn't require her to come up. Why should they require Tom Ridge to come up?

What kind of an argument is that? Where would that get you in law school? Where would that get you in moot court? What kind of a lawyer is that? I would hate to have been that kind of a student down at American University and gone up before Dean Myers in moot court and said: Well, I will tell you now, Dean. Condoleezza Rice, the National Security Adviser, doesn't have to. Congress doesn't require her to come up there before them and be confirmed. So why would we say that the head of the Homeland Security Department has to come up there?

What an argument. What kind of lawyer would make that argument? Yet Senators are willing to roll over and play dead with that argument. They don't require Condoleezza Rice to come up?

Is that a case winner? My word, what kind of high-priced lawyer is that? Would that have won the case for William Jennings Bryan in Tennessee? That great lawyer, that great orator, is the man who argued the case in the John T. Scopes trial, and his opponent. That was a real case. I don't think they would have won the case just to say: Well, this fellow over here, say what you want to him about him. But over here, we don't require this person to go up there and be confirmed. So, let's get home early for supper. We don't want to argue about that. They have the votes. Let us just give it to them. They have the votes. Why not give it to them?

I am talking about William Jennings Bryan in the John T. Scopes trial. That is not quite enough of a case, I don't believe, to be persuasive. It might be persuasive among good lawyers, but it is not quite persuasive among Senators.

The Government's fight against terrorism is bigger than a Department of Homeland Security, and it is too big, I say to Tom Ridge, or Tom, Dick, and Harry—nothing derogatory about the person. Oh, no, you are not going to hang me with that. I don't mean that. But it is too important to the American people to have just an aide to the President doing it.

Only an office that can act with the authority of both the White House and the Congress can realistically guarantee that homeland security policy will be fully implemented in the farthest corners of the Federal Government.

That is a sound statement. It is based on specifics, and it is based on logic. It is based on common sense. I don't have much of it anymore. I get tired early. I am quite tired now. My voice is getting faint, and my hands tremble and my hair is white. But I still believe the people back in West Virginia sent me here to represent them to my best ability. I swore when I came here, before God and man, standing up before that desk there, that I would support and

defend the Constitution against all enemies, foreign and domestic. I am not saying there are enemies in this body or in this country. No. I am not saying that at all. But there are some people who are willing to go the easy way and take the line of least resistance on that Constitution. Oh, that Constitution is an old piece of paper. Those men back there in 1787 didn't have any telephones. The telephone didn't come along until 1875. No. Those people back there at the time the Constitution was written didn't have the incandescent light. No. That just came along in 1878. No. Back in those days, they didn't have automobiles. They had horses and buggies. They pulled the shades and drew the blinds so they couldn't hear the wagons out there on the streets. The automobile didn't come along until 1887 or 1888. They couldn't tell what was going on outside the place. They did not have the cell phones. They didn't have radios. They didn't have television sets, and radios didn't come along until the turn of the century.

There was Marconi, and wireless telegraph didn't come along until 1848. The steam engine was invented back in 1869. That was just a few years before the convention met. You couldn't expect those people back then to write a constitution that would endure for the ages. You can't expect that.

The Constitution? What do you mean, Senator BYRD? The Constitution?

Well, the Constitution was written in 1787. There were not any women there. The youngest person there, I believe, was Johnathan Dayton. He may have been the youngest person there. Benjamin Franklin was 81.

They did not have television. Television didn't come along until 1926. We are the bright ones. We are the people who should have written the Constitution in our age. We have the radio, and all of these things.

I know that Isaiah, of course, prophesied that certain things would happen. Isaiah said: Make straight the desert highway for our God. Every valley shall be exalted, and every mountain and hill shall be laid low. The crooked shall be made straight, and the rough places low. The glory of the Lord shall be revealed, and all flesh shall see it together.

But Isaiah? That was a long time ago. Back in those days, how could he have foreseen? But he did.

Take these marvelous inventions I have been talking about—the telephone, the radio, television, the cable under the oceans, the jet-propelled plane, the automobile—they have exalted the valleys, have laid low the mountains and the hills, have made the rough places plain, have made a straight line in the desert.

Isaiah's predictions have come true. And the glory of the Lord has been preached in all corners of the Earth, on every continent and every corner of the globe. The glory of the Lord has been revealed.

Those people weren't old fogies. Isaiah knew what he was talking about. Here were the Kings with all of these marvelous inventions.

When Nathaniel Gorham and Rufus King and John Langdon and Roger Sherman and George Read and Benjamin Franklin and Robert Morris and Gouverneur Morris and Elbridge Gerry were up there working, they did not have all these wonderful inventions; and they met behind closed doors. They didn't let anybody know what was going on. And they wrote that little old book they called the Constitution of the United States.

By the way, this book contains both the Constitution and the Declaration of Independence. It certainly isn't very much, is it? These smart lawyers say that the President has legal authority. And these smart lawyers had to go through—what?—was it 4 years or 3 years or 2 years, or whatever, to get that law degree? I had to go 10 years to get mine. And I read far more books than this little book. It took a long time. I had to burn a lot of midnight oil to get my law degree.

Yes, these smart lawyers can say: Oh, the President has legal authority. But this is what counts in the final analysis, the Constitution.

Yes, I listened to all those programs last Sunday. There was the Vice President of the United States. There was Condoleezza Rice. There was the Secretary of Defense. There was the Secretary of State. And there were others there. And not one time did any one of them ever mention the Constitution of the United States.

They are all saying: The President has authority. Congress has already authorized them. It authorized them in the 1991 resolution. It authorized them in the resolution last year. And he also has the robes of Commander in Chief wrapped around him. Oh, he has all the authority he needs.

No, he doesn't. This says: Congress shall have the power to declare war. Now, you may argue all you want, but I took an oath. And I have taken it many times. I have stood at the desk up there, and I put my hand on the Holy Bible, the King James version, which was published in 1611. And I have sworn before God and man to support and defend this, the Constitution of the United States, against all enemies, foreign and domestic. Here it is in my hand.

Have we grown so far, have we grown so big, have we come so far, have we gained so much power, so much wisdom, so much judgment, so much authority, that we can just nonchalantly push aside this dear old book that holds the Constitution of the United States? No. I took that oath. It was a serious oath. Every Senator in this body has taken that oath. Every Senator in this body has taken that oath. It is not to be taken lightly.

Someday we will talk about the oath and how the ancient Romans revered their oath, the oath they took, the

oaths. But we just lightly cast this Constitution aside: This is an old piece of paper. Ha, that thing was written in 1787, and it was ratified by the few States that made up this people, as we have it. It only needed to be ratified by nine States. That was long before our time. We are much smarter than they were then. We know more now than they knew then. We are experienced. We are living in the real world. The Constitution was for yesterday. The Constitution was for yesteryear. The Constitution was for the 18th century. It was all right, still, in the 19th century. And for the first half of the 20th century it was probably all right. But these are different times.

Is that what John Marshall said? Tell that to John Marshall. I will tell you, folks, the thing is much deeper than this. Senators have not seen, really, what events will flow—and I have not, either—from our creation of this Department. And I want to create a Department. But from an unconfirmed Director, a Director that is unconfirmed by the Senate, they will look back and say: ROBERT BYRD, for once, was right. And maybe just for once. Or some may be a little more lenient and liberal than that and say: Well, I have known a couple times he was right; but he was right. And those men who wrote the Constitution were right. They were writing a constitution that would protect the common people, the people of this country, against tyranny, against unlimited power. They were protecting the liberties of the people.

There was no Democratic Party, there was no Republican Party when those men, those 39 signers of the Constitution of the United States, sat down on September 17, 1787, and wrote their names on the dotted line.

Old Benjamin Franklin said: "We shall all hang separately or we shall hang together." They pledged their fortunes, their lives—think of that—their sacred honor.

The men who signed this Declaration of Independence were committing treason—treason—when they signed that Declaration of Independence. They could have been taken to England, tried, and hanged, or gone to the guillotine, like Charles I. It may not have been a guillotine, but it was certainly an accurate axman.

But they wrote this Constitution to create limited government, divided government, with tensions separating the various Departments. Yes, they were written on parchment, these barriers to tyranny, to power. And there had to be jealousy among those three Departments. It was thought they would defend the prerogatives of that Department against the encroachments of another Department. That was the way it was meant to be.

And when I came here to this Senate, there were men and one woman, Margaret Chase Smith, who sat right over there, where my hand is pointing to that desk over there in the front row on the Republican side. Those men and

one woman, what would they have said? Would they have said: "Let's go home to supper early. Let's just give it to them. They have the votes"? No, not those Senators; not Styles Bridges; not Senator Hickenlooper; not Senator BENNETT of Utah; not Senator Javits of New York; not George Aiken of Vermont; not Mike Mansfield of Montana; not Richard B. Russell of Georgia who sat at this desk; not Willis Robertson of Virginia; not Harry Byrd, Sr., of Virginia; not Senator O'Mahoney of Wyoming; not Stuart Symington of Missouri; not John McClellan of Arkansas; not William Fulbright of Arkansas; not Everett Dirksen of Illinois, who wanted the marigold the national flower; not STROM THURMOND of South Carolina, who sat on this side of the aisle, my side; not Olin D. Johnston of South Carolina; not Samuel Ervin of North Carolina; not Norris Cotton of New Hampshire; no, not those men and that lady who wrote her declaration of conscience as she sat at that desk, Margaret Chase Smith.

Those Senators on both sides of the aisle would have had none of this. They wouldn't have stood still for that kind of halter to be placed over their heads, for that kind of noose to be placed around their necks. They would not have stood for that.

We have great Senators today. I have always thought, as I have looked back and I have thought about the Senators we have today, how intellectually advanced they are. They are really smart. And a lot of their hearts are in the right place. But something happened to the Senate. It is too partisan anymore. It is guided too much by partisan politics.

But back to the question at hand. There have been a lot of changes in the White House, too. I don't believe that Dwight D. Eisenhower would have wanted to see this. Dwight D. Eisenhower was a President who prayed himself. He prayed in his first inaugural address. The President of the United States, Dwight Eisenhower, spoke the prayer and asked for divine guidance.

George Washington, the greatest of all, he said, no, I can't do this. This is something that Congress will have to decide, when it came to using the military.

Well, those days are gone. I say again that only an office that has the authority of both the White House and the Congress can act in a way that will realistically guarantee that homeland security policy will be fully implemented in the farthest corners of the Federal Government. That man who sits down there in the White House, who will be the new Homeland Security Director, needs the authority of the Senate behind him. He needs the constitutional authority of the confirmation by the Senate behind him.

Then he can go out and speak to the American people with the knowledge that he has the authority—not just the

authority of someone who has been created by an Executive order but someone whose position has been created by the Congress of the United States, and he himself, as the person, has been confirmed by the Senate of the United States.

I should think that he would be viewed by the American people, if they stop and think, as having more real authority if he is confirmed by the Senate of the United States. I have a feeling that his colleagues would look upon him as somebody who is an equal over them. He had to go before the Senate and answer the questions of Senators and committees, and he had to be confirmed. He had to be reported favorably by the committee in the Senate, and he had to stand before the bar of judgment, as it were, and be confirmed by the votes of the Senators. Not only was he appointed by the top Executive order of the land, but he was confirmed by the top legislative authority in the land, the legislative branch, meaning the Senate in this instance, according to the Constitution.

By giving the new Director statutory authorities, statutory responsibilities, we will ensure that he will have independent authority to act from within the White House, without having to compete with other advisers to secure the President's support for his coordination efforts. If he is not required to be confirmed by the Senate, he will have to compete with other advisers who don't have to be confirmed by the Senate, other staff people who don't have to be confirmed by the Senate.

He will have to compete with many others who require confirmation. He will have to compete with them to secure the President's support for his coordination efforts, as they are carried out, are going to cut across a lot of lines of authority. They are going to cut across lines of authority that run between and among two or more agencies, many agencies of the Government.

He is going to have to cut through that redtape. He is going to have to cut through it. What authority does he have? He is the President's staff man. He is the President's adviser. Who is the President's adviser? Did he ever go before the people's elected representatives in the Senate and get their confirmation? No.

Well, some of his competition does have to go before those Senators, his competitors.

Its competitors will be other Department heads—men and women who have had to come before the Senate Committee to be confirmed by the whole Senate. He has to compete with them. But his confirmation would ensure that he would have independent authority to act from within the White House. He has the authority, the stamp of approval not just of the President but, more importantly, the stamp of approval of the people of the United States through their elected Representatives. In fact, we will not only

allow the Director to act independently, we will require him to do so. How about that?

The Director will have to follow up on the implementation of homeland security strategy, because he will have to answer to Congress if he doesn't. Also, by requiring Senate confirmation of this new Director of the National Office for Combating Terrorism, Congress will ensure that its concerns over the implementation of homeland security strategy will not be subordinated to the political agenda of the White House. Even when the President's advisers want to conceal agency mismanagement or shift public focus toward a war with Iraq, Congress can make sure that the Director's job is getting done because Congress can ask him directly and say: All right, Mr. Director, we want to know about your stewardship.

We are all going to have to answer for our stewardship—we Senators, who are viewed with contempt by many of the people in the administration, who have to be confirmed by Senators. We Senators have to answer for our stewardship. I have answered for my stewardship many times over a political career of 56 years now, in all legislative branches of government, both at the State level in both houses, and in both Houses at the Federal level. I have had to answer for my stewardship. I have to go back every now and then and say: Here is my name. I want to put it up again. Here is my filing fee. I want to stand for office again. I have to answer for my stewardship, and so would the Director of Homeland Security have to answer to the people's Representatives for his stewardship in that office.

Oh, no, no, he is the President's staff man. He is the President's adviser. Well, he is an important adviser, and he certainly is an important staff man. He is above the grade level of ordinary staff people, ordinary advisers. He should be confirmed.

So we will not only allow the Director to act independently, we will require him to do so. The Director will have to follow up on the implementation of homeland security strategy because he will have to answer to Congress if he doesn't.

I have only read three and a half pages thus far. I am a slow reader. How did I ever get through that? Talk about poor readers, my goodness. I have only read three and a half pages, and I have been talking—how long have I been talking, may I ask the clerk through the Chair?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator has been speaking for 2 hours 15 minutes.

Mr. BYRD. My lands, that is a lot of time. Was it 2 hours and a half?

The PRESIDING OFFICER. The Senator from West Virginia has been speaking for 2 hours 15 minutes.

Mr. BYRD. And I have just read three and a half pages. I am a slow reader. I had a feeling that Senators just wanted me to keep on. They don't want to

come over and hear this. I am trying to get their attention. Three and a half pages in 2 hours 15 minutes.

Mr. President, while I am speaking, it reminds me of Cicero, who was asked the question: "Which of Demosthenes' speeches do you like best?" Cicero answered: "The longest." That is how good Demosthenes was.

Mr. REID. Will the Senator yield for a question?

Mr. BYRD. Is it a question the Senator thinks I might be able to answer?

Mr. REID. Easy.

Mr. BYRD. Then, yes, always.

Mr. REID. Is the Senator aware he has spoken 2 hours 15 minutes just this last round? Prior to that, he spoke for an hour. So this is actually 3 hours 15 minutes, other than the short quorum call after which I requested that the Senator have the floor. So, actually, it has been closer to 3 hours 15 minutes. Is the Senator aware of that?

Mr. BYRD. I wasn't really aware of the passage of time. Along that line, may I say, let me see if I can quote a little verse by someone else:

The clock of life is wound but once,
And no man has the power to know just
when the hand will strike, at late or
early hour.

Now is all the time we have, so live, love,
and work with a will.

Take no thought of tomorrow, for the clock
may then be still.

Mr. REID. May the Senator ask another question?

Mr. BYRD. Yes.

Mr. REID. Is the Senator aware that the majority leader has authorized me to announce that there will be no more rollcall votes today?

Mr. BYRD. I am not aware of that. That might change my outlook.

Mr. REID. That is what I was thinking might be the case.

Mr. BYRD. That might send me home to my dear wife of 65 years and 3 months and 14 days.

Mr. REID. May I ask one other question. It would also send me home to my wife. We were married 43 years ago today, September 12. So it is my anniversary today. But I don't want the Senator to feel any compulsion that I should get home early.

Mr. BYRD. I really feel guilty in detaining the distinguished Senator, the very able Senator, my friend. He is one I have admired all the time I have known him. I am sorry I have detained him on his wedding anniversary. I wish the Senator would have let me know that a little earlier.

Mr. REID. If I may say one more thing. I was looking for an opportunity. In fact, I suggested it, but they said it would be very unsenatorial. I was considering waving a white flag because they surrendered some time ago and indicated that they had left. There was going to be a motion to table made when the Senator decided to sit down, but there was a decision made that maybe that might take a long time. So they decided to go home some time ago. I indicated it would be very

unsenatorial to wave a white flag in the Senate, so I thought this would be a better way of telling you there is going to be no motion to table made tonight.

Mr. BYRD. I see a more colorful hue as I look for it out here. My little dog's name is Trouble. My wife named the dog. Obviously, she was looking at me when she named the little dog Trouble. That little dog Trouble loves me, but he loves my wife more.

My wife is in the hospital right now. I should go over to visit her. I am a little too late already.

I am trying to remember what the great Englishman, Edmund Burke, said about the origin of the term "whip." The "whipper-in" was the person who kept the hound from running away from the field in the fox chase.

The English had the whip in the 14th century, certainly in the 17th century, the 1600s. The whip at that time would send what they called a "circular letter" to the King's supporters, or if there was a whip in the opposition, he would send a circular letter to the opponents of the King and tell them to come in and meet in Parliament at a certain day and a certain time about a certain piece of business. That was the whip. That was the English whip. That is where the whip system started.

The House has a whip. The Senate has not had a whip as long as the other body has had a whip. The Senate has a great whip in the distinguished senior Senator from Nevada. I have been a whip, and before that I served under whips. I was a whip for 6 years, and I was a good whip. I stayed on the Senate floor all the time.

But I say right here and now, as far as I am concerned, Senator REID of Nevada is the best whip the Senate has ever had, notwithstanding even that I was a Senate whip. I served as whip when Mr. Mansfield was majority leader. I put everything I had into being a whip. I stood by the gate. If I had been told to guard that gate, I would have been at that gate alive or dead when Mr. Mansfield came back.

This Senator from Nevada, as far as I am concerned, is the best whip we have ever had. He is right here on this floor all the time, or within a voice from this floor. He works here on this floor. He is very loyal to his majority leader, and he is loyal to his duties, to his people back home. He tells me every now and then he has a delegation from Nevada that he has to go and see. But this whip is here at all times, and he is here to protect me. If I to leave the floor, he will protect me. I know he will. He is a good whip. He is a great whip.

I will take my hat off any day and say: Gunga Din, you are a better whip than I am. That is saying a lot. I don't say that often. I was a good whip, but the Senator is a better whip than I was because he probably is more loyal to his party than I was and more loyal to his majority leader than I was.

I stood on this floor offering an amendment during the Vietnam war to

say the President of the United States—who happened to be Richard Nixon at the time—had a duty to do whatever it took. If it meant bombing the Vietcong across the lines in Cambodia, the President had a duty to do that to protect our American servicemen.

I offered that amendment, and my majority leader was opposed to it. I stood by it; I fought the fight and lost. Mr. Nixon called me on the telephone that same afternoon from Camp David. He said: You did a great thing down there. He called me Bob. My wife does not call me Bob. She is kind enough to call me Robert. He said: Bob, that's a great thing you did. In his words, he said: You did a statesmanlike job. You stood for what you believed in, and you offered an amendment on behalf of the servicemen, the men in the field. You stood by what you thought, and you even stood against your own party, the leadership.

That was all right, and that was well and good for me because I have my own views of what is required of me. But the distinguished Senator from Nevada, he is not disloyal to his leader, not to the people over here who elected him to his position in the Senate, nor to the people back in Nevada who sent him here. I salute him.

I will quietly fold my tent and fade away from the Chamber if he is about to tell me that there will not be any more votes and that tomorrow, when we come back, I may have the floor again.

Mr. REID. Will the Senator yield for a brief comment in response to the Senator?

Mr. BYRD. Yes.

Mr. REID. The plan tomorrow is to come in and we will be on the Interior appropriations bill until noon. Senator DASCHLE is planning on having a vote on a judge around 10 o'clock, and that will be by voice. Senator DODD, and whoever is opposing his legislation, will debate for a half hour, and that vote will occur at 10:15 tomorrow morning. Tomorrow morning, we will be on the Interior appropriations bill.

I, frankly, do not think we can work anything out on forest fire suppression. I will try, but I do not think it can be done. So the leader has to make a decision as to whether he is going to file cloture on the Craig amendment. We may have to do that tomorrow.

At noon, we will go back to this bill. I have been told that the Senators who offered this amendment, Senators GRAHAM and LIEBERMAN, are considering withdrawing the amendment, which would leave the amendment pending being the Thompson amendment which, of course, will be subject to another amendment.

That will be the status at noon tomorrow, if the leader decided to work on this bill Friday afternoon. As the distinguished Senator from West Virginia knows, Friday afternoons are really tough to get things done around here. We are going to have votes to-

morrow, one on the judge and one on the Dodd amendment.

Before signing off, I say to my friend, the Senator's comments did not go unnoticed. I am flattered and a little embarrassed, but I do appreciate very much what the Senator said. As I have said publicly and privately, every day that I have been able to serve in the Congress and the Senate with the distinguished Senator from West Virginia is a day I consider to be very lucky. To think someone from where I came could be on the same floor as a Senator speaking with the great ROBERT BYRD is difficult for me to imagine.

I understand the importance of the job I have. I appreciate very much the statements of the Senator. But that is our plan for tomorrow.

Mr. BYRD. I thank the distinguished Democratic whip. I am very willing to take my tent and fold it silently and slip away.

I ask unanimous consent that when the Senate next takes up homeland security—

Mr. REID. Which will be tomorrow at noon or thereabouts.

Mr. BYRD.—I be recognized at that time.

Mr. REID. I am the only one in the Chamber and I certainly would not object to that. I do not think anyone from the minority is present, and they do not have any basis for objecting anyway. The Senator has the floor now.

We would attempt tomorrow morning—of course, the Senator is the manager of the other bill. We would attempt during that period of time to see what we can work out on this homeland security bill so we can attempt to move forward in some way, because certainly what we do not want, at least tomorrow, is to be in a position where we have to file cloture. I do not think that is necessary.

We will be happy to meet with the Senator tomorrow.

I ask unanimous consent that when the Senate next goes to S. 5005, the first recognition be given to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the speech I have made not be counted as a speech under the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. May I say to the distinguished Senator, I am quite happy to go home. These old legs of mine have been carrying me around now for a long time. I always had heard that when one gets to be up in years a little bit, the feet and the legs first start to trouble one. So I can bear witness to that.

In case there are any Senators who think the distinguished majority whip did wrongly in saying we could go home if the Senator would take a seat, let me say I have only spoken 2 hours and 15 minutes—is that accurate?

Mr. REID. Three hours and 15 minutes. Now it is about 3 ½ hours.

Mr. BYRD. And I am only on page 3 of page 4. Well, that is just a start. As John Paul Jones said, "We have just begun to fight."

I have in my pocket the Constitution of the United States and the Declaration of Independence. Once I finished page 4 tonight, I intended to start reading the Declaration of Independence and the Constitution of the United States to follow.

Mr. REID. I say to my friend, I do not think he would have to read it, would he?

Mr. BYRD. I think reading it makes it better.

Mr. REID. Does not the Senator have that memorized anyway?

Mr. BYRD. I know something about the Constitution, but I will save that for another day. I have a number of poems which I would be glad to quote even though these old legs are getting tired. Shall I quote one?

Mr. REID. I personally would like to hear a poem.

Mr. BYRD. Mr. President, I never was a show-off so I am not going to quote any poetry tonight. That would be showing off. I just wanted the Senator to know I could quote some poems. I can read the Constitution and comment on it as I go along. I can read the Declaration of Independence. I can read the Bible. I can read Milton's "Paradise Lost." I could read Carlyle's "History of the French Revolution." I could even read Daniel Defoe's "Robinson Crusoe." Just because my legs are hurting and I am growing quite frail and my voice is a little weak, I am not quite ready to say, well, they have the votes and let us quit.

I thank the distinguished Democratic whip. The Senator knows I am getting tired, which is the reason I am not saying things just right.

Let me see if there is anything else for which I need consent. I believe not, but it is my understanding that I will be recognized when the Senate next returns to the homeland security legislation. I thank the Chair and I thank the whip.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not think a good steward would want to leave his job unfinished quite so abruptly. I do have a half page of my prepared remarks to read. I do not like to put items in the RECORD, so, if I may, I ask unanimous consent that again this not be counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. By requiring Senate confirmation of this new Director of the National Office for Combating Terrorism, Congress will ensure that its concerns over the implementation of homeland security strategy will not be subordinated to the political agenda of the White House.

Remember, we are not just talking about a Director of Homeland Security under the Bush administration. We are not just talking about a Director of Homeland Security under a Republican administration. There can very well come a time there will be a Director of Homeland Security under a Democratic administration, and I hope the Senators will see the wisdom in looking forward to a time when the worm will turn, the wheel will turn, and there will be a Democrat in the White House.

I am thinking of Senate confirmation as something that will be important under a Democratic administration as well as under a Republican administration, as important to the people of this country under a Democratic President as under a Republican President, under Mr. Bush. For the moment, it is a Republican President. A thousand years is but a day in God's reach. And there will probably be a Department of Homeland Security after my life on this globe has run its span.

The war against terrorism may not end soon. It may go on and on. Who knows? The President himself has said it will not be quick, it will not be easy, and it will not be short. Therefore, it is not difficult to imagine that there will come a day when there will be a Democratic President in the White House, and I say that my Republicans friends, when that time comes, will be glad if we in our day have required the Director of Homeland Security to be confirmed by the Senate.

So we are not legislating for a day, a week, or the remaining 2 years of this Republican administration. We are debating and acting for a long time.

Once this is on the statute books, it is not easy to change it because a President can veto a change. If Congress sees the unwisdom of its ways today and seeks to change the statute books, maybe a President in the White House would veto that bill if it came to his desk. So its easier, in a way, to make a law than it is to change a law, in some instances. We had better do it right the first time, rather than just do it fast. Do it right. That is what I am seeking to do.

Even when the President's advisers want to conceal the agency mismanagement or shift public focus toward a war with Iraq, Congress can make sure that the Director's job is getting done because Congress can ask him directly. So I tell my colleagues that I understand their desire to style the statutory office by yielding to the urge that I know some Members do.

Let's do it right. There may be a different administration, maybe a different party at the White House, Mr. Bush may not be at the White House at

that time, I may not be at my desk. Let's do it right. Let's do it the way we ought to do it. If the war on terror is to be with us a long time, a Director of Homeland Security will be with us a long time, and Tom Ridge, if he is to be the Director in the future, even he may be gone and another Director may stand in his stead. Think about that. It is more than just a thought in passing.

I thank my friend from Nevada. I thank all Senators. I thank the wonderful people who have to man the desks up there. I thank the Presiding Officer, I thank the pages, the security personnel, the Doorkeepers and all. They have had to wait and listen. They are doing their job. I thank them and I apologize to them, in a way. I apologize for having delayed them to their places of abode.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, my statement has to undergo some interruption because of the colloquy between Mr. REID and myself. But the little remainder that I just read just now, I hope it will be understood from those who read the RECORD, that was the closing part of a previously prepared speech, and I hope they will keep that in mind when they read all parts of it in the RECORD. I would not ask it be joined directly with the first part, because of that colloquy.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allow to speak for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. EDWARDS. Mr. President, as a member of the Senate Intelligence Committee, I firmly believe that the issue of Iraq is not about politics. It's about national security. We know that for at least 20 years, Saddam Hussein has aggressively and obsessively sought weapons of mass destruction through every means available. We